

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 1302 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

16th May, 2022

Ms. Shabana Chohan, Advocate for applicant.
Mt. Sheeraz Hussain Shar, Advocate for complainant.
Ms. Seema Zaidi, DPG.

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Omar Sial, J: Imran Ahmed has sought pre-arrest bail in crime number 404 of 2021 registered under sections 337-F(v) and 34 P.P.C. at the Bilal Colony police station in Karachi. Earlier, his application seeking bail was dismissed by the learned 7th Additional Sessions Judge, Karachi Central on 08.06.2021.

2. On 16.04.2021, one Waqas went to the Bilal Colony police station and reported that while he was loading furniture on his Suzuki along with Tahir and Mairaj, one lady accompanied by 3 persons came and beat his brother Ramiz by hitting him on his head and nose and also hit Tahir on his head and Mairaj on his nose. He did not identify any one of the accused persons but said that he will be able to identify them if they were before him. An F.I.R. was not registered by the police. It appears that subsequently Waqas on 22.05.2021, registered an F.I.R. for the same incident in which he had drastically changed his initial statement. Both statements have been incorporated in the F.I.R. rather oddly and are self-explanatory and thus not being reproduced here. Suffice to say that prima facie material improvements have been made and the lady and the men accompanied by her identified. It was not explained to me by the learned counsel for the complainant as to how the complainant came to know all the details that he subsequently narrated. The F.I.R. shows that in its registration the police has stated that the delay in registering the F.I.R. is solely attributable to the complainant. Upon a tentative assessment it also appears that the date of recording of the witnesses section 161 Cr.P.C. statements has also been changed from 22.04.2021 to 22.05.2021. No explanation has been provided as to how the investigating officer could get the date wrong on each of the section 161 Cr.P.C. statements. Apart from the fact that the foregoing creates doubt it also upon a

tentative assessment shows that malafide cannot be conclusively ruled out. The allegation against the applicant is that he hit Ramiz with a spade on his head whereas the other accused hit him with iron rods. Though Ramiz's skull was injured, at this stage it cannot be said with certainty that the others iron rods did not hit him on the head. In these circumstances, the admitted grant of bail to co-accused Azeem, also entitles the applicant to bail on grounds of consistency.

3. For the foregoing reasons, the interim pre-arrest bail granted to the applicant is confirmed on the same terms and conditions.

JUDGE