

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

Cr. Bail Appl. No. S- 113 of 2023

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DATE	ORDER WITH SIGNATURE OF JUDGE
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27.03.2023

Mr. Imtiaz Ali Channa, Advocate for applicant  
Mr. Siraj Ahmed Bijarani, A.P.G.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through this Criminal Bail Application, applicant Abdul Hafeez seeks post-arrest bail in Crime No. 79 of 2022 registered at Police Station Khudabad for offenses publishable under Sections 379 & 324 PPC. The bail plea raised by him before the trial Court was rejected vide order dated 19.1.2023 on the ground that the applicant / accused is involved in the case with a specific role, besides the prosecution story is supported by statements of witnesses.

2. The allegation against the applicant is that he along with his companions came and tried to steal the grain chaff of the Complainant lying near his house; on the resistance, the applicant and his companions made straight firing upon the Complainant party and in retaliation, they also fired from licensed double barrel gun which hit the applicant and co-accused Altaf, as a result of which they became injured while his companions fled away in loader rickshaw. Subsequently, such information was conveyed to police who upon reaching the place of the incident took the applicant and Altaf into custody and lodged the FIR.

3. Mr. Imtiaz Ali Channa, learned counsel for the applicant submits that the applicant / accused is innocent and has falsely been implicated due to malafide intention; that there was / is a private dispute between the applicant and Muhammad Bux Panhwar. The learned counsel argued that on the night of the incident, the applicant along with co-accused went to take his rotation of water to their lands when said

Muhammad Bux Panhwar, Complainant and one police official who were in league with each other apprehended the applicant and caused firearm injuries and then handed over to ASI of police Station Khuda Abad, such video clip is available with them; there is unexplained delay of four and half hours in lodging of FIR; that there is allegation of ineffective firing and no injury is caused to the Complainant party; therefore, Section 324 PPC requires further inquiry which will be determined at trial while remaining sections do not fall within the prohibitory clause of Section 497(1) Cr.P.C. He lastly prayed for grant of bail to the applicant.

4. Complainant is called absent though notices have repeatedly been issued to appear and assist this court; however, he has chosen to remain absent.

5. Mr. Siraj Ahmed Bijarani learned A.P.G. has opposed the bail application on the ground that the applicant is nominated in the FIR with specific role; that the applicant was caught red-handed at the place of incident. He prayed for dismissal of instant bail application.

6. I have heard learned counsel for the parties present in court at some length and have perused the record with their assistance.

7. The tentative assessment of the record reveals that the applicant received firearm injury at the hands of complainant while taking away the wheat chaff of the Complainant. The prosecution has narrated the story that the applicant has also made ineffective firing though no recovery has been effected from him. The applicant has taken the stance that he has been falsely implicated due to previous enmity with one Muhammad Bux Panhwar relative of ASI Manzoor Ali Panhwar who has managed the story. The applicant has submitted that he along with co-accused were busy in irrigating their lands from the sanctioned watercourse, which annoyed the Complainant party, who in collusion with ASI Manzoor Ali caused firearm injuries to the applicant and after severe maltreatment handed over his custody to ASI Manzoor Ali Panhwar who falsely lodged F.I.R against him. The applicant also relied upon the video clip and submitted that such an incident has already been recorded, which will be produced in evidence, therefore the case against the applicant is false and required

further inquiry. The applicant further submitted that on the contrary, the complainant and ASI concerned are liable to be booked under Section 324 PPC, as they are the actual culprits.

8. Prima-facie, it is yet to be ascertained that from what distance the applicant received firearm injuries, which could only be determined if the medical evidence is brought on record. The investigation has been completed; the applicant is no more required for further investigation. All the sections applied in the FIR do not fall within the prohibitory clause of Section 497 Cr.P.C., except Section 324 PPC, the applicability of which will be determined at trial. Besides the applicant's version needs to be looked into by SSP concerned at his end.

9. Before parting with this order, SSP concerned is directed to look into the matter and probe the involvement of police officer in private affairs, and if his involvement is proven such disciplinary action shall be taken after providing an opportunity of hearing to all concerned.

10. In view of the above, the applicant is admitted to post-arrest bail in Crime No. 79 of 2022 registered at Police Station Khudabad for offenses punishable under Sections 379 & 324 PPC, subject to his furnishing solvent surety in the sum of Rs. 20,000/- (Twenty Thousand only) and PR bond in the like amount to the satisfaction of trial Court.

JUDGE