

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-230 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

<u>17.04.2023</u>	For orders on office objection. For hearing of main case.
-------------------	--

Mr. Ahsan Ali Bhurgari, advocate for the applicant.  
Mr. Bhopo alias Bhoopat Kolhi, advocate for complainant.  
Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Walji seeks post-arrest bail in Crime No.13/2023, registered at Police Station Kario Ganhwar for the offence under sections 324, 114, 504, 34 PPC. Earlier the bail plea of the applicant/accused was declined by the learned 2<sup>nd</sup> Additional Sessions Judge, Badin vide order dated 08.03.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant has mainly argued that the applicants/accused is innocent and has falsely been implicated in this case; that the role assigned against the applicant/accused is his presence only at the place of incident; that the applicant/accused has not inflicted any injury to injured, however, due to previous enmity over matrimonial affairs, he has been booked in the instant case falsely. Learned counsel has further argued that the case of applicant/accused falls under the scope of vicarious liability which is to be determined by the trial Court after recording evidence of prosecution witnesses and this is a fit case for further inquiry, as such, he prayed for grant of bail to the applicant/accused.

4. On the other hand, learned A.P.G. Sindh and learned counsel for the complainant have vehemently opposed the grant of bail to the applicant/accused and submitted that name of applicant/accused finds place in the FIR with specific role that he has instigated the co-accused in commission of the offence.

5. Heard and perused the record.

6. From the perusal of FIR, it appears that previously the parties were not at good terms on account the dispute over house affairs. Admittedly,

the applicant/accused has not caused any injury to injured. Only the role assigned against the applicant/accused is his mere presence at the place of incident. The applicant/accused is behind the bars and no purpose would be served keeping him in Jail further. He is no more required for further investigation. At the bail stage, only a tentative assessment is to be made. It is yet to be seen when evidence will be recorded whether the applicant/accused shared his common intention with co-accused or not. Reliance is placed in the case of 'Qurban Ali v. The State and others' (2017 SCMR 279) and case of 'Mumtaz Hussain and 5 others v. The State (1996 SCMR 1125).

7. In view of the above facts and circumstances, learned counsel for the applicant/accused has made out the case for further inquiry as envisaged in subsection 2 of section 497 Cr.P.C. Consequently, the applicant/accused is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.50,000.00 (Rupees fifty thousand only) and PR bond in the like amount to the satisfaction of learned trial Court.

8. It is made clear that if the applicant after getting bail will not appear before the trial Court and the trial Court is satisfied that the applicant becomes absconder and fugitive to law, then the trial Court is fully competent to take every action against the applicant/accused and his surety including cancellation of bail without referring to this Court.

JUDGE