

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-265 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For orders on MA No.3182 / 2023.
For hearing of main case.
20.04.2023

Mr. Mir Murtaza Abro, advocate for the applicant.

Mr. Nazar Muhammad Memon A.P.G. Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicant/accused namely, Karim Bux seeks post-arrest bail in Crime No.24/2022, registered at Police Station Dilbar Khan Mahar for the offence under sections 324, 337-A (i), A (ii), 337-F (ii), 148, 149, 109, 504, PPC. Earlier the bail plea of the applicant/accused was declined by the learned Additional Sessions Judge-II/CBV/Anti-Rape Court, Mirpurkhas vide order dated 10.03.2023.

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 applicant/accused is innocent and has falsely been implicated in this case; that there is delay of about one day in lodgment of FIR and no plausible explanation has been furnished; that there is confliction between ocular and medical evidence; that no evidence has been brought on record to connect the applicant/accused in the commission of instant crime. Lastly, learned counsel prayed for grant of bail of the applicant/accused.

4. On the other hand, learned A.P.G. Sindh has vehemently opposed the bail application.

5. Heard and perused the record.

6. Admittedly the applicant has been nominated in the FIR with specific role that he has given hatchet blow on the head of complainant and after receiving such injury the complainant fell down. Further, so far the contention raised by learned counsel that the FIR is lodged after delay of about one day is concerned, the reasons for such delay has properly been explained by the complainant that after obtaining letter and getting treatment, he appeared at PS and lodged the FIR. Further, the injury received by the

complainant falls under section 337-A (i) and 337-A (ii) PPC. In such circumstances, the section 324 PPC is very much applicable in the instant case. It is worthwhile to mention that the Hon'ble Supreme Court has been pleased to observe in the case of 'GHULAM QADIR v. The STATE' [2022 SCMR 750], the relevant observations are reproduced as under:-

“3. Contents of the First Information Report supported by the statements of the witnesses and findings recorded by the Medical Officer run counter to the hypothesis of denial. Though the formal First Information Report was recorded on 17.8.2021, however, the injured with extensive injuries were medically examined under police dockets on 13.8.2021; according to the provisional medico legal certificates, they had reached hospital on 12.8.2021 at 6:00 p.m. just half an hour after the incident and, thus, delay in formal registration of the case, a phenomena hardly unusual, does not raise eyebrows. Even otherwise, in the absence of any apparent mala fide on part of the complainant or the local police, the petitioner cannot claim extraordinary/equitable concession of pre-arrest bail in a criminal case wherein no less than three persons endured multiple injuries, one being an incised wound on the back of neck with exposed bone. Arguments addressed by the learned counsel, being part of post arrest agenda, cannot be attended at pre-arrest bail stage, certainly not substitute for post arrest bail. The High Court as well as the Court of Sessions, on the assessment of above referred to material, rightly declined judicial protection to the petitioner. Petition fails. Leave declined.”

7. Apparently, the complainant has received injuries at the hands of applicant on his head and it was fortunate of the complainant being saved from loss his life; therefore, no *mala fide* appears in the instant case and no ill will or enmity has been pleaded by the applicant/accused. Prosecution has, *prima facie*, furnished sufficient material to connect the applicant with the commission of offence and PWs have supported the prosecution version, therefore, this is a case where bail cannot be granted to the applicant. Since the specific role has been assigned to the applicant/accused that he has caused injury to the complainant, hence, he does not deserve for concession of bail. Accordingly, instant criminal bail application is **dismissed**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE