

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

Criminal Bail Application No.S-395 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>15.05.2023</u>	For orders on office objection. For hearing of main case.
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Mr. Shahid SANwar Arain, advocate for applicant along with applicant, who is present on interim pre-arrest bail.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:-- Through instant bail application, the applicant/accused namely, Zulfiquar Ali Jatoi seeks pre-arrest bail in Crime No.238/2022 for the offence under section 324, 147, 148, 149, 114, 504, 506 PPC registered at Police Station Hatri, District Hyderabad. Earlier, the bail plea of the applicant/accused was declined by the learned IIIrd Additional Sessions Judge, Hyderabad vide order dated 10.04.2023.

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

3. Learned counsel for the applicant/accused has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case due to dispute over a plot; that after grant of bail, the applicant/accused is attending the learned trial Court regularly. He argued that before that the applicant/accused has lodged FIR being crime No.237/2022 against the complainant party, in which all the accused are on bail. He further contended that the offence, with which the applicant/accused is charged, does not come within the ambit of prohibitory clause of section 497 (1) Cr.P.C. as its maximum punishment is three years. He further contended that the challan has been submitted and applicant/accused is no more required for further investigation. He, therefore, submitted that the interim pre-arrest bail granted to the applicant/accused may be confirmed.

4. On the other hand, learned A.P.G. Sindh has opposed the confirmation of bail to the applicant/accused.

5. Heard and perused.

6. Admittedly, the parties have lodged FIRs against each other. In the counter case, lodged by the accused party, the complainant party is on bail. It is yet to be determined by the learned trial Court after recording

evidence of the parties as to which party is aggressor and which party is aggressed upon. The offence with which the applicant/accused is charged is punishable upto three years. Challan has been submitted and applicant/accused is no more required for further investigation. The offence does not come within the ambit of prohibitory clause of section 497 (1) Cr.P.C. Learned counsel for the applicant/accused has also pleaded *mala fide* on the part of complainant that due to dispute over the plot, the applicant/accused has been involved in this case falsely. In view of the above, learned counsel has succeeded to bring the case of applicant/accused for further inquiry as envisaged under subsection 2 of section 497 Cr.P.C. Resultantly, instant criminal bail application is **allowed** and interim pre-arrest bail granted earlier to the applicant is hereby confirmed on the same terms and condition laid down therein.

7. 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

Abdullah Channa/PS