

**HIGH COURT OF SINDH, CIRCUIT COURT
AT HYDERABAD**

**Cr. Bail Application No.S-990 of 2023
[Dilbar Hussain versus The State]**

Applicant : Through Mr. Ghulamullah Chang advocate
Complainant: Through Mr. Housh Muhammad Mangi advocate
State : Through Ms. Sana Memon Assistant P.G Sindh
Date of hearing: 23.10.2023
Date of decision: 23.10.2023

ORDER

MUHAMMAD KARIM KHAN AGHA J.- Applicant Dilbar Hussain alongwith co-accused was booked in FIR No.56 of 2023 registered at P.S Shahpurchakar under Sections 334, 337-A(i), 504 and 34 PPC and the case is now proceeding before learned Additional Sessions Judge Shahdadpur, who vide Order dated 07.08.2023 dismissed the pre-arrest bail of present applicant, hence he has approached this Court for pre-arrest bail.

2. Brief facts of the case are that on 01.05.2023 complainant was standing outside his house when at about 04:00 p.m four accused, including present applicant, came to his house and after exchange of hot words present applicant/accused caused iron bar/rod at the head and face of Mujahid, which broken his teeth and the other accused also caused lathies and bricks to complainant party. The complainant went to the hospital for treatment of injured persons and then lodged the above FIR.

3. I have heard the learned counsel for the applicant, learned A.P.G as well as learned counsel for the complainant and have also considered the record.

4. I find that there is counter FIR in the field, but same will not stand in the way for refusal of pre-arrest bail. The offence for which the applicant has been so charged is not bailable. The applicant's case is distinguishable from that of co-accused, who has been granted bail, as present applicant has been given specific role of striking the P.W Mujahid on the head and face with iron bar/rod. The injuries to the said PW have been supported by the medical certificate and the incident has also been supported by Section 161 Cr.P.C statements of the witnesses. The delay in lodging the FIR has been explained through the fact that the complainant went to hospital for treatment of injured persons.

5. Further there appears no evidence of malafide in this case and there is sufficient material to connect the present applicant/accused with the commission offence. As such pre-arrest bail granted to the applicant, vide Order dated 07.09.2023, is hereby recalled. SHO of P.S Shahpurchakar is directed to arrest the applicant/accused and produce his custody before District Jail Sanghar. A copy of this Order shall be sent to trial Court/ Additional Sessions Judge Shahdadpur for information. Copy of this Order shall also be sent to SSP Sanghar for compliance.
6. Needless to mention here that observations made hereinabove are tentative in nature and the same will not prejudice the case of either party at trial.
7. Captioned bail application stands disposed of accordingly.

JUDGE

Sajjad Ali Jessar