

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
 Crl. Bail Application No.S-219 of 2023
 (Khuda Bux Bhutto Vs. The State)

1. For Orders on office objection.
2. For hearing of bail application.

ORDER.

13-11-2023.

Mr. Ghulam Shabbir Shar, advocate for the applicant.
 Mr. Shabbir Ali Bozdar advocate for the complainant.
 Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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Irshad Ali Shah, J.: It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly in prosecution of its common object, caused fire shot injuries to complainant Faiz Muhammad, PW Sagheer Ahmed, Abdul Waheed and Shabbir with intention to commit their murder and then went away by making fires in air to create harassment, for that the present case was registered.

2. On having been refused pre-arrest bail by learned Additional Sessions Judge, Daharki, the applicant has sought for the same from this Court by way of instant application u/s 498-A Cr.P.C.

2. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case by the complainant party in order to satisfy its dispute over matrimonial affairs; the entry kept in roznamcha with regard to the incident is not disclosing the name of any culprit; FIR of the incident has been lodged with delay of about two days; therefore, the applicant is entitled to be admitted to pre-arrest bail on point of further inquiry and malafide. In support of his contention, he relied upon the case of *Javed Iqbal Vs. The State through Prosecutor General of Punjab and another* (2002 SCM 1424).

3. Learned Additional P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that he is named in FIR with specific role of causing fire shot injury to PW Abdul Waheed on his buttock, which has gone through and through.

4. Heard arguments and perused the record.

5. The FIR of the incident has been lodged with delay of about two days; such delay having not been explained plausibly could not be over looked; it is reflecting consultation and deliberation. Injuries sustained by PW Abdul Waheed is on his buttock, which is non-vital part of his body; the parties are already disputed over matrimonial affairs; the case has finally been challaned; it has proceeded and there is no allegation of misusing the concession of interim pre-arrest bail on the part of the applicant. In these circumstances a case for grant of pre-arrest bail to the applicant on point of further inquiry and malafide obviously is made out.

6. In case of *Meeran Bux vs. The State and others* (PLD 1989 S.C 347), it has been held by Hon'ble Apex Court that;

".....Since the appellant remained on bail for more than one year before the bail was cancelled by the High Court without abusing the concession of bail in any manner and the reason given by the learned Session Judge for granting pre-arrest bail that the injury was on non-vital part of the body of 'the deceased i.e. thigh and was simple, was not without foundation, we would, therefore, in the circumstances, set aside the impugned order of the High Court and restore the order of the Sessions Judge granting the pre-arrest bail."

7. In view of above, the interim pre-arrest bail already granted to the applicants is confirmed on the same terms and conditions.

8. The instant bail application is disposed of accordingly.

Judge

Nasim/P.A