

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1440 of 2023

Applicant : Bilal Hussasin S/o Noor Hussain
Through Mr. Muhammad Siddique
Solangi, Advocate

Complainant : Habiba Khatoon W/o Muhammad Hussain
Through Mr. Javaid Ahmed Rajput,
Advocate

Respondent : The State
Through Mr. Siraj Ali Khan,
Addl. Prosecutor General, Sindh.

Date of hearing : 07.08.2023

Date of order : 07.08.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.183/2023 registered under Section 324 PPC at PS Docks, after his bail plea has been declined by Additional Sessions Judge-III, Karachi West vide order 09.06.2023.

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

3. Learned counsel for the applicant/accused has mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that in fact, the independent witnesses have not supported the version of the complainant; that no crime weapon / empty bullet has been recovered from the place of incident; that the applicant/accused is no more

required for further investigation. He lastly prays for confirmation of pre-arrest bail.

4. On the other hand, learned counsel for the complainant and learned Addl. P.G. have vehemently opposed for confirmation of bail to the applicant/accused.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. Admittedly, the name of the applicant/accused finds place in the FIR with specific role that he has made several fires from his pistol upon injured Zia which hit on his belly and one bullet on his neck so also sister of the applicant also received bullet injury at the hands of applicant/accused. As per medical certificate, the injuries were declared under Section 337(D) & 337 (f)(vi) PPC. The punishment for injury No.1 as prescribed is 10 years. The ocular evidence finds support from the medical evidence. The injured has fully supported the version of the complainant in his 161 Cr.P.C. statement. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the learned counsel for the applicant, which could be the ground for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others' [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual

course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, learned counsel for the applicant/accused has failed to make out a case for further inquiry as envisaged under subsection (2) of section 497, Cr.P.C. Consequently, the interim pre-arrest bail granted by this Court to the applicant/accused vide order dated 03.07.2023 is hereby recalled and the bail application is **dismissed**.

9. 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/accused on merits.

JUDGE

Kamran/PA