

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Appln: No.S-867 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGE(S)

For orders on office objection
For hearing of main case

21.08.2023

Mr. Mohsin Raza Gopang advocate a/w applicant.
Ms. Rameshan Oad, A.P.G. for the State.

ZULFIQAR ALI SANGI, J :- Through this bail application, applicant Bangul s/o Hakim @ Abdul Hakeem seeks his pre-arrest bail in Crime No.129 of 2023, registered at PS Johi for offences under sections 506(2), 147, 148,149, 504, 337-A(i) and 337-F(i), PPC. After his bail application was declined by learned trial Court vide order dated 10.08.2023.

2. Since the facts of the prosecution case are already mentioned in F.I.R as well impugned order, therefore, there is no need to reproduce the same.

3. Learned counsel for applicant contents that applicant being innocent has been falsely implicated in this case by the complainant with malafide intention; that there is existed enmity between the parties over money transaction; that there is inordinate delay of almost one day in lodging the FIR, which has not been explained by the complainant; that there is no direct or indirect evidence against applicant which shows that he has committed the alleged offence, but it is clearly malafide part on the complainant to implicate him in a false case due to ulterior motives; that there is no criminal record of nature nor he has been convicted from any Court of law. He lastly contends that the offence with which applicant is charged does not fall within prohibitory clause of section 497, Cr.P.C and applicant is on interim pre-arrest bail and he is regularly attending the trial Court.

4. On the other hand, learned A.P.G appearing on behalf of the State opposed the confirmation of interim bail on the grounds that applicant is nominated in FIR with specific role of causing iron rod

injury on the head of complainant which has been medically opined to be Shajjah-i-mudihah, punishable under section 337-A(ii), PPC which is not bailable in nature, as such, he is not entitled for confirmation of interim bail.

5. Heard and perused the record.

6. Perusal of record reflects that only injury attributed to the present applicant/accused as 337-A(ii), PPC for which, the punishment is provided for five years, which does not fall within the prohibitory clause of section 497, Cr.P.C and the F.I.R. is delayed for about one day and no plausible explanation has been given by the complainant. Learned counsel for the applicant pleaded malafide on the part of the complainant that after arranging the medical certificate he has lodged false F.I.R. against him. The accused/applicant is attending the trial Court regularly and there is nothing on record to show that he misused the concession of bail. The charge has been framed and applicant is no more required by the police for further investigation of the case. At bail stage, only tentative assessment is to be made. In view of above circumstances, as learned counsel for the applicant has made out a case for confirmation of interim pre-arrest bail of the above named applicant in view of sub-section 2 of Section 497, Cr.P.C. Resultantly the instant bail application is allowed and ad-interim pre-arrest bail earlier granted to the applicant vide order dated 10.08.2023 is hereby confirmed on the same terms and conditions.

7. The applicant, who is present on interim bail has been confirmed as above, is directed to attend the learned Trial Court regularly if he fails to appear, the Trial Court would be at liberty to take action against him in accordance with law.

8. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at the time of trial.

This bail application stands disposed of in the above terms.

JUDGE