

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

Criminal Bail Application No.S-1410 of 2023

Applicant : Through Mr. Malik Muhammad Haroon, Advocate.  
Complainant : Through Mr. Ahsan Gul Dahri, Advocate.  
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State : Through Ms. Rameshan Oad, Asst. P.G Sindh.  
Date of hearing : **25.01.2024**  
Date of Order : **25.01.2024**

**O R D E R**

**AMJAD ALI SAHITO, J:-** Through this Bail Application, the applicant / accused seeks his admission on pre-arrest bail in Crime No.324 of 2023, u/s 324, 337-H(ii), 34 PPC at P.S Kazi Ahmed, after his bail plea was declined by the learned Additional Sessions Judge-II, Shaheed Benazirabad vide order dated 13.12.2023.

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

3. Learned counsel for the applicant submits that applicant/accused is innocent and has falsely been involved in this case; that there is murderous enmity between the parties therefore, applicant / accused has been booked in this case; that the applicant was complainant in Crime No.55 of 2020 registered at PS Kazi Ahmed in which the brother of the complainant has been nominated; that as per medical certificate the injury attributed to the injured has been declared under Section 337-H(ii) which is punishable for three (03) years. He next submits that the complainant has manipulated the whole story with due deliberation and lodged the present F.I.R against the applicant/accused; that applicant/accused has joined the investigation and is no more required for further enquiry as well as is regularly attending the trial Court. He lastly prayed for grant of confirmation of pre-arrest bail to the applicant/accused.

4. On the other hand, learned Assistant Prosecutor General, Sindh assisted by learned counsel for the complainant has vehemently opposed for grant of bail to the applicant/accused and states that the name of applicant/accused is

transpired in the F.I.R with specific role of causing fire arm injury on the left leg of the injured Majid Ali; that previously he has been involved in a murder case and after grant of bail he has committed this offence therefore, is not entitled for concession of pre-arrest bail.

5. Admittedly, there is murderous enmity between the parties and previously the applicant/accused has lodged F.I.R for murder of his brother against brother of complainant. Further instant F.I.R is delayed for two (02) days for which no plausible explanation has been furnished by the complainant. The offence in which the applicant/accused is charged does not fall within the prohibitory clause of section 497 Cr.P.C whereas grant of bail is a rule and refusal is an exception. No exception has been pleaded by learned counsel for the complainant as well as learned A.P.G to believe that applicant/accused has misused the concession of interim pre-arrest bail. However, the punishment provided for Section 337-H(ii) PPC is only three (03) years while the applicability of section 324 PPC is to be determined at the time of trial hence, the case of applicant is fit for 'further inquiry.

6. In view of the above, at bail stage, only a tentative assessment is to be made. Learned counsel for the applicant/accused has made out a case for confirmation of bail. Resultantly, instant bail applications is **allowed** and the interim pre-arrest bail earlier granted to the applicant/accused vide order dated 28.12.2023 is hereby confirmed on same terms and conditions.

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**

*\*Hafiz Fahad\**