

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S-23 of 2024

Date of hearing	Order with signature of Judge
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1. For orders on office objection.
2. For hearing of bail application.

ORDER **05.03.2024**

Mr. Ruksar Ahmed Junejo, advocate for the applicant
Mr. Muhammad Juman Sahito, Advocate for complainant
Mr. Aftab Ahmed Shar, APG for the State

ZULFIQAR ALI SANGI J., Through the instant Crl. Bail Application, the applicant/accused Sanjay Kumar son of Lachu Mal by caste Hindu, seeks post-arrest bail in Crime No. 70/2023 offence u/s 324, 337-A(i), (ii), F(iv), 114 PPC registered at police station Pir-Jo-Goth, District Khairpur. Prior to this, the applicant/accused has filed such application for grant of post -arrest bail, but the same was turned down by the Court of learned 2nd Additional Sessions Judge Khairpur vide order dated 16.12.2023, hence he has filed instant bail application.

2. The facts of **case** are mentioned in the memo of bail application and copy of FIR has been attached, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submits that applicant/accused is innocent and has falsely been implicated in this case by the complainant with mala fide intentions and ulterior motives due to admitted dispute over the plot; that there is inordinate delay of one day in lodging of FIR which has not been explained properly by the complainant; that according to contents of FIR applicant/accused caused hatchet injuries to injured but medical certificate issued by MLO reflects that injures sustained by the injured were caused by hard and blunt substance, under such circumstances there is conflict between the ocular version and medical evidence; that the offence with which applicant/accused charged does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C. Lastly, he prayed for grant of bail to applicant/accused. In support of his contention he has relied upon case of Saeed Khan vs. The state (2011 SCMR 1392).

4. Learned counsel for the complainant opposed for grant of bail on the ground that name of applicant/accused transpires in the FIR with specific role of causing hatchet injuries to PW injured Mandhul Mal, the brother of complainant; that the medical evidence supports the ocular account furnished by the complainant and PWs, therefore applicant/accused does not deserve for

concession of bail. In support of his contention he relied upon case of Sharif vs. The state (1995 P.Cr.L.J 1692)

5. Learned Addl. P.G for the state also opposed for the grant of bail, however he submits that all the injuries except injures No. 2 are bailable in nature and same has been declared as Shujjah-i-mudihah by the MLO and its punishment is up to 05 years.

6. I have heard learned counsel for applicant, learned counsel for the complainant, learned Add. P.G for the State and have gone through the material available on record.

7. From the perusal of material available on case file it reflects that same Presiding Officer while deciding the bail application of applicants/accused Jai Kumar and 2 others bearing CrI. B.A No. 3798/2023 has formed his opinion that there is delay of one day in lodging of FIR for which no plausible explanation has been furnished. On the other hand while deciding the bail application of present applicant/accused bearing CrI. B. A No. 3489/2023 he has formed his opinion that delay has been explained by the complainant properly. According to the contents of FIR, applicant/accused has caused hatchet injuries to the injured Mandhu Mal, however medical certificate of the said injured reflects that injuries were caused by hard and blunt substance which creates doubt in respect of the presence of complainant who though allegedly available at the place of incident not received any injury. As per learned Addl. P.G all the injuries except injury No.2, which was declared as Shujjah-i-mudihah are bailable in nature and punishment for injury No.2, is up to 05 years and the same does not fall within the ambit of prohibitory clause of Section 497 Cr.PC. Nothing incriminating has been recovered from the applicant/accused which connects him with the commission of offence.

8. In view of above discussion, learned counsel for the applicant/accused has made out a good case for grant of bail in the light of sub section (2) of Section 497 Cr.P.C, hence the instant bail application is allowed and applicant/accused Sanjay Kumar son of Lachoo Mal Hindu is granted bail subject to his furnishing solvent surety in the sum of Rs. 50,000/- (Fifty thousand) and P.R bond in the like amount to the satisfaction of learned trial Court.

9. Needless to mention 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.

J U D G E