

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S-84 of 2024

(Nazar Muhammad Channa Vs. The State)

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

ORDER.

19-03-2024.

Mr. Manzoor Hussain Larik, advocate for the applicant.
Syed Ali Murtaza Shah, advocate for the complainant.
Mr. Zulfiqar Ali Jatoi, 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 by trespassing into the house of complainant Saeed Ahmed caused iron rod, lathies, butt and clip blows to complainant Saeed Ahmed and PWs Hub Ali, Sajjad Ali, Nizamuddin and Junaid and then went away by insulting the complainant party, for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned IIIrd Additional Sessions Judge, Khairpur, has sought for the same from this Court by way of instant Bail Application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party only to settle its dispute over landed property; therefore, he is entitled to be released on bail on point of further inquiry, which is opposed by learned Additional P.G for the State and learned counsel for the complainant by contending that the applicant has actively participated in commission of incident by causing iron rod blows to the complainant.

5. Heard arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about three and half hours and such delay having not been explained plausible could not be over looked. The injury sustained by the complainant, which is

attributed to the applicant is not falling within prohibitory clause of section 497 Cr.P.C. There is no recovery of any sort from the applicant even after his arrest. The parties are disputed over landed property. Co-accused Aftab and others have already been admitted to bail by learned trial Court. The case has finally been challaned and there is no likelihood of absconsion or tampering with the evidence on the part of the applicant. In these circumstances the case for the release of applicant on bail on point of further enquiry is made out.

In case of *Khalil Ahmed Soomro and others Vs. The State (PLD 2017 SC-730)*, the Hon'ble Apex Court has held that;

"5. In this case, it appears that net has been thrown wider and the injuries sustained by the victims except one or two, have been exaggerated and efforts have been made to show that the offences are falling within those provisions of law, punishable with five years or seven years' imprisonment. All those aspects if are combindly taken, may constitute element of mala fide".

7. In view of above, the applicant is admitted to bail subject to his furnishing solvent surety in sum of Rs.100,000/- (One lac) and P.R bond in the like amount to the satisfaction of learned trial Court.

8. The instant bail application is disposed of accordingly.

Judge