

ORDER SHEET

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO

Cr. Bail Application No.3- 370 of 2022

Applicant(s): Fazal Deen son of Qaim Deen by caste Bhangwar, through Mr. Aftab Ahmed Channa, Advocate.

The State: Through Mr. Ali Anwar Kandhro, APG .

Date of hearing: 05.09.2022.

Date of order: 05.09.2022.

ORDER

Naimatullah Phulpoto-J. Applicant Fazal Deen Bhangwar seeks pre arrest bail in Crime No.85/2022 registered at Police Station A-Section Kandhkot for offence under sections 337-F(v) 337-A(i),147,149, PPC. Previously, applicant/accused applied for the same relief before learned 1st. Additional Sessions Judge, Kandhkot but the same was rejected by him vide order dated 26.7.2022.

Mr. Aftab Ahmed Channa, learned advocate for the applicant/accused contended that injury attributed to the applicant/accused is on non vital part of the body and said injury is not mentioned in the mashirma of the injuries. It is further contended that this is a case of counter version, applicant side has already lodged FIR against the complainant and others at the same police station bearing Crime No.94/2022 for offences under section 506/2, 337-F(i), 337-L(ii), 147, 149 PPC. It is submitted that yet it is to be determined which party is aggressor. It is submitted that four sons of the applicant/accused have been nominated in the FIR and malafide on the party of complainant is apparent on the record. Lastly, it is submitted that alleged offence does not fall within prohibitory clause of section 497 Cr.PC. The case has already been challaned. In support of his contentions, reliance has been placed on the case of Anwar Ali v. The State through Chairman Nab and others (2022 PCr. LJ 65).

Mr. Ali Anwar Kandhro, Additional Prosecutor General for the State conceded to the contentions raised by learned advocate for the



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applicant/accused and recorded no objection for confirmation of bail to the applicant/accused mainly on the ground that these are cases of counter version and it is yet to be determined which party is aggressor.

I have carefully heard learned counsel for the parties and perused the record.

I am inclined to grant pre arrest bail to the applicant/accused mainly for the reason that injury attributed to the applicant/accused is on left arm, it is not vital part of the body. Learned APG submits that this is a case of counter version, yet it is to be determined which party is aggressor. Regarding malafide on the part of complainant is concerned it is argued that four sons of applicant/accused have been involved in the aforesaid FIR. Admittedly alleged offence does not fall within prohibitory clause of section 497 Cr.PC. The grant of bail in such cases is a rule and refusal is an exception. Rightly reliance has been placed on unreported judgment of Hon'ble Supreme Court in the case of Rana Muhammad Imran Nasrullah v. the State (Criminal Petition No: 358-L of 2022 dated 23.8.2022). In which it is held that at the time of hearing pre-arrest bail application merits of cases can be touched.

For the above stated reasons, case for grant of pre arrest bail is made out. Interim pre arrest bail already granted to the applicant/accused vide order dated 27.7.2022, is hereby confirmed on same terms and conditions.

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JUDGE