

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

Cr. Bail Application No.S-1034 of 2024

30.09.2024

Applicant is present on interim pre-arrest bail.

Mr. Aijaz Ali Bhutto, Advocate for applicant.

Mr. Siraj Ahmed Bijarani, Asst. Prosecutor General, Sindh a/w
Syed Imam Dino Shah PS Baldia Hyderabad.

Syed Moazam Ali Shah, Advocate files power on behalf of
complainant, which is taken on record.

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ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Bail Application, applicant Haji Hussain s/o Essa seeks pre-arrest bail in Crime No.127 of 2024 registered at PS Baldia Hyderabad u/s 337-A(ii), 337-L(ii), 337-A(i), 337-F(i), 504, 34 PPC. His earlier application bearing No.2620 of 2024 for the grant of same relief was heard and dismissed by the learned 9th Additional Sessions Judge, Hyderabad vide order dated 13.09.2024. The applicant was admitted to ad-interim bail by this Court, vide order dated 16.09.2024, now he seeks confirmation of his interim bail.

2- Briefly stated facts of the case as disclosed in the aforementioned F.I.R are that on 24.08.2024 complainant alongwith his nephew Muneer Ahmed-ul-Rehman Kateej left home for purchasing some goods. Their neighbours Haji Hussain, Ahmed Hussain and Muhammad Hussain, who usually used to exchange harsh words with them, and due to such altercation on every day, the complainant party was moving their households to village Muhammad Bux Shoro on which they (accused persons) became annoyed. It is alleged that on the same day at about 0500 hours, the accused persons came and started abusive language with the complainant on which his nephew restrained them but the accused persons started assaulting them. During such altercation, accused Ahmed Hussain hit his nephew Muneer on his head with butt of pistol and caused him injury who fell on the ground. The accused persons then fled away from the place of occurrence by extending threats of dire consequences.

3- Learned counsel for the applicant contends that applicant, who is an elderly person of 74 years, is innocent and has falsely been implicated in this case due to malafide and ulterior motives; that the story narrated

in the F.I.R is false, fabricated and concocted one requires further enquiry; that no specific role has been assigned to applicant in commission of alleged offence, except his presence. Learned counsel prays that interim bail granted to the applicant may be confirmed.

4- Conversely, learned A.P.G. for the State along with Syed Moazam Ali Shah Advocate for complainant, while opposing the bail of applicant, contend that since the applicant along with co-accused have jointly attacked upon the complainant party, he is not entitled for bail.

5- Manifestly the allegations against the applicant are general in nature. Co-accused Ahmed Hussain and Muhammad Hussain have been admitted to post arrest bail by the trial Court. The alleged injury has been attributed to co-accused Ahmed Hussain. The offence with which the applicant stands charged does not fall within the prohibitory clause of Section 497, Cr. P.C. In such circumstances, grant of bail to an accused is a rule and its refusal is an exception. No exceptional circumstance appears to withhold the bail to applicant in this case. The present case also does not fall within the exception laid down by the Honourable Supreme Court of Pakistan in the case of *Tariq Bashir vs. The State (PLD 1995 SC 34)*. The challan has been submitted and there is no complaint of the applicant regarding misusing the concession of interim pre-arrest bail granted by this Court. Hence, instant bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicant vide order dated 16.09.2024 is confirmed on same terms and conditions.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case applicant in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

JUDGE

Hafiz Fahad