

# IN THE HIGH COURT OF SINDH, KARACHI

## **Criminal Bail Application No. 1643 of 2024**

<i>Date</i>	<i>Order with signature of Judge</i>
<b>Applicant</b> Murad Mirbahar, son of Muhammad Umar Ghuman Mirbahar (present on bail)	: through Mr. Jamshed Iqbal, Advocate
<b>The State</b>	: Through Mr. Khadim Hussain, Addl. Prosecutor General, Sindh.
<b>Date of hearing</b>	: 10.10.2024
<b>Date of order</b>	: 10.10.2024

### **ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicant Murad Mirbahar seeks his admission to pre-arrest bail in Crime No.22 of 2024 registered with Police Station Garho, Thatta, for the offences punishable to Sections 337-F(iii), 337-H(ii), 506-B, 504, 324, 114 & 34 PPC. The case has been challaned which is now pending for trial before the Court of 1<sup>st</sup> Addl. Sessions Judge/MCTC, Thatta vide Sessions Case No.125 of 2024 (re-the State Versus Murad and others). The applicant along with co-accused preferred anticipatory bail before the trial Court which by means of order dated 12.06.2024 was dismissed; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submits that role attributed to applicant is, he allegedly caused gunshot injury to PW Jamaluddin which landed on his right leg and the said injury has been declared by the MLO to be publishable to Section 337-F(iii) PPC and carries punishment of three years. As far as, section 324 PPC is concerned, learned counsel submits that accused has not repeated the injury, therefore, his intention with regard to commission of Qatl-i-Amd is yet to be established by the prosecution after recording evidence of its witnesses. He, therefore, prays for grant of bail.

4. On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that accused is nominated in the FIR; besides, section 324 PPC has been applied under the FIR, therefore, he is not entitled for the bail.

5. The complainant as well as his counsel, inspite of notice, have chosen to remain absent.

6. **Heard arguments and perused record.** No doubt, the applicant is nominated in the FIR; however, role attributed to him is, he allegedly caused gunshot injury to injured Jamaluddin which landed on his right leg and that being non-vital part of his body, has not been declared by the MLO to be fatal or dangerous for his life. The punishment provided by the law for the said injury is three years which does not come in the ambit of prohibition as contained under Section 497 Cr.P.C. Moreover, there is no allegation of repetition of injury, hence, question of committing Qatl-i-Amd of injured PW Jamaluddin, is yet to be established by the prosecution after recording evidence of its witnesses and then the trial Court has to determine it in accordance with law. Reliance can be placed upon the case of *Master DUR MUHAMMAD and 2 others Versus THE STATE (1994 P.Cr.L.J 1769)*.

7. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *KHALEEL AHMED SOOMRO and others Versus The STATE (PLD 2017 SC 730)*, case against applicant requires further inquiry within meaning of subsection (2) to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Murad Mirbahar son of Muhammad Umar**

**Ghuman Mirbahar** on 26.07.2024 is hereby confirmed on same terms and conditions.

8. Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court would be competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC.

9. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

***JUDGE***

Zulfiqar/P.A