

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

Criminal Bail Application No.S-246 of 2023

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
-------------	--------------------------------------

For orders on office objection.  
For hearing of main case.

10.04.2023.

Mr. Shoukat Ali Rahimoon advocate for the applicant.  
Mr. Wishan Das Kolhi advocate for the complainant.  
Mr. Abdul Waheed Bijarani Assistant Prosecutor General.  
Complainant is present in person.

O R D E R

MUHAMMAD IQBAL KALHORO, J:- Applicant who is absent today is husband of complainant Mst. Haseena who has alleged in FIR that on 02.02.2023 when she was in family way for more than two months, her husband demanded money to be fetched by her from her parents and on her refusal he and his sisters manhandled her, caused kicks on her abdomen generating severe pain there. As such, she came to her parents' house and got treatment but could not stop miscarriage and lost her child. The matter was reported on 06.02.2023 after four days of the incident which learned defence counsel has cited as the main ground for consideration of pre-arrest bail to the applicant besides the fact that there is difference between ocular evidence and medical evidence. His arguments have been, however, rebutted by learned counsel for the complainant and learned APG.

I have considered submissions of the parties and perused material available on record. First time the complainant was examined was on 07.02.2023 after one day of FIR. Atleast four injuries were found on her person which includes severe pain in her abdomen which ultimately led to miscarriage. Challan has been submitted and apart from the sections in FIR, section 338(b) PPC has been included which carries punishment up to ten years. The applicant is directly implicated by complainant with specific role of kicking her on abdomen causing loss of child. There is no occasion for a wife to falsely implicate her husband for such a heinous offence: causing miscarriage of her only child. In view of prima facie evidence against the applicant, in my view, he is not entitled to concession of pre-

arrest bail which can be granted to an accused only when he has established to have been falsely implicated in the case out of malafide. Whereas, in the present case prima facie evidence connecting the applicant with the alleged offence is overwhelming as such he is not entitled to the concession of pre-arrest bail. Accordingly, the bail application is dismissed and ad-interim pre-arrest bail granted to him vide order dated 21.03.2023 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Irfan Ali