

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appl. No.2866 of 2023

Date	Order with signature of Judges
------	--------------------------------

1. For orders on office objection at 'A'.
2. For hearing of Bail Application

22.02.2024.

Mr. Muhamamd Nizar Tanoli, Advocate for the applicant.
Syed Zohaib Khalid, advocate for the complainant.
Mr. Abrar Ali Khichi, Additional Prosecutor General Sindh.

Mohammad Karim Khan Agha, J. The applicant Muhammad Usman S/o. Muhammad Javed is facing trial before the VIIIth Civil Judge & Judicial Magistrate Karachi South in respect of FIR No.595 of 2023 U/s. 337-A(iii) PPC registered at PS Defence, Karachi. He applied for pre-arrest bail which was declined by the Additional Sessions Judge-XI Karachi South vide order dated 15.12.2023, hence, the applicant has approached this Court for pre-arrest bail.

2. I have heard the parties and perused the record.

3. No doubt this is a serious offence wherein it is alleged that the applicant punched the complainant in the face which caused her injuries under section 337-A(iii) PPC. This offence falls within the prohibitory clause. The applicant is named by the complainant with specific role of punching the complainant in the face. It is however, noted that she reported the incident to the police one day after the incident and obtained the medical certificate 05 days after the incident and then only lodged the FIR after 05 weeks without any explanation. Prima-facie this indicates that the case against the applicant might be false and that in any event injuries were not so serious that she approached the doctor for medical certificate 05 days after the incident. Since this is a case of violence against woman, bail ought to be refused, however, in this case learned counsel for the applicant has placed on record the order of VIIIth Civil Judge & Judicial Magistrate Karachi South dated 19.02.2024

which categorically states that the complainant is not appearing before the trial court and as such the trial of the applicant cannot move forward. This is not the fault of the applicant.

5. Under these circumstances, the pre-arrest bail granted earlier by this Court on 20.12.2023 to the applicant Muhammad Usman S/o. Muhammad Javed is confirmed on the same terms and conditions.

6. It is made clear that this order is only after a tentative assessment of the evidence available on record and would have no bearing on the outcome of the trial of the applicant which shall be decided by the concerned trial Court on merits. The complainant is directed to appear before the trial court on the next date of hearing and record her evidence. Copy of this order shall be sent to the VIIth Civil Judge & Judicial Magistrate Karachi South to complete the trial within 03 months of the date of this order.

7. The criminal bail application stands disposed of in the above terms.

JUDGE

M. Arif