

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Cr. Bail Application No. S – 72 of 2021**

Date	Order with signature of Judge
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**For hearing of bail application**

1. For orders on office objection at flag 'A'
2. For hearing of bail application

**22.03.2021**

Mr. Mushtaque Ahmed Shahani Advocate for the Applicant  
 Mr. Mohsin Ali Randhawa Advocate holding brief on behalf of  
 Mian Mumtaz Rabbani Advocate for the complainant  
 Mr. Shafi Muhammad Mahar, DPG for the State

**ORDER**

**Aftab Ahmed Gorar, J-** Through instant Criminal Bail Application, the applicant/accused Ghulam Nabi S/o Shahan Meerjat, seeks pre-arrest bail in Crime No.152 of 2020 registered at Police Station, Salehpat, District Sukkur, for offences punishable under Sections 147, 148, 149, 337-F(i), 337-F(v) PPC.

2. The facts of the prosecution case, in brief are that on 24.12.2020 complainant Munir Ahmed lodged FIR at police Station, Salehpat, which allegedly took place on 18.12.2020 at 04:00 pm, stating therein that there was dispute in between him and ghulam Nabi over the street. On the date of incident, he along with his brother Ashraf Ali, Hidayat Ali were standing at his houses, when it as 4:00 pm, there came present applicant Ghulam Nabi, Zameer Hussain, Karam Hussain, with lathies, Ghmthar, Gul Bahar, with pistols. Out of them, present applicant/accused challenged and

caused lathi blow on the right shoulder of complainant, while rest of the accused Karam Hussain and Zameer Hussain also caused him lathi blows on his other parts of body, hence such FIR was registered, as stated above.

3. The applicant on having been refused pre-arrest bail by the Court of learned 1st. Additional Sessions Judge (MCTC), Sukkur vide order dated 30.01.2021 hence he has sought the same from this Court by filing the instant Criminal Bail Application.

4. It is contended by learned counsel for the applicant/accused that the applicant/accused being innocent has been involved in this case falsely by the complainant party due to enmity over the street and such fact is admitted in the FIR; that there is delay of six (06) days in lodgment of the FIR, for which no plausible explanation has been furnished; that the applicant/accused has been attributed the role of causing lathi blow to complainant Munir Ahmed on his right arm/shoulder, which is non-vital part of the body; that the alleged offence does not fall within the prohibitory clause of Sub-section 2 of Section 497 Cr.P.C; that the charge has been framed in the case before the trial Court but the complainant is avoiding to proceed with the matter; that the complainant did not appear before the Medical Board constituted for examining his injuries, hence the opinion of the Medical Board is kept in abeyance due to absence of injured/complainant; that the applicant/accused has challenged the medical certificate by filing an application to the Director General, Health Services Sindh, Hyderabad, which is pending; that there is

malafide on the part of the complainant to involve the present applicant in a false case; that there is no independent eye-witness of the incident; that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. He lastly contended that the applicant/accused has made-out a case for grant of pre-arrest bail on the point of further enquiry.

5. Complainant present in person, his counsel is called absent. Mr. Mohsin Ali Randhawa Advocate is holding brief on behalf of Mian Mumtaz Rabbani, learned counsel for the complainant.

6. Learned Deputy PG appearing for the State recorded no objection for confirmation of the interim pre-arrest bail to the applicant/accused by contending that admittedly there is enmity between the parties over street and there is delay of 06 days in lodgment of FIR, for which no plausible explanation has been furnished; that the alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C.

7. I have heard the learned counsel for the applicant/accused, learned Deputy PG for the State and perused the record. The FIR of the incident has been lodged with delay of about six (06) days and such delay having not been explained plausibly by the complainant could not be ruled-out, which appears to be significant. The allegation against applicant in the commission of offence is that he has caused lathi blow to the complainant on his right arm/ shoulder, which is non-vital part of the body. The applicant/accused has

challenged the medical certificate by filing an application to the Director General Health Services, Sindh Hyderabad and Special Medical Board has been constituted for examining the injury sustained by the complainant Muneer Ahmed at the hands of the present applicant/accused. The offence with which the applicant/accused has been charged does not fall within the prohibitory clause of Section 497 Cr.P.C. In these circumstances, the applicant/accused is found entitled for grant of pre-arrest bail on the point of further inquiry. Consequently, the interim pre-arrest bail earlier granted to the applicant/accused vide dated 30.01.2021 is hereby confirmed on same terms and conditions. The applicant/accused is directed to regularly attend the trial Court till final disposal of the case.

8. The instant bail application is disposed of accordingly.

Judge

ARBROHI