

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

**Cr. Bail Application No. S – 96 of 2021**

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

**22.03.2021**

M/s Qurban Ali Malano and Amber Iqbal Advocates for the  
Applicant/accused  
Haji Shamsuddin Rajper Advocate a/w complainant  
Mr. Shafi Muhammad Mahar, DPG for the State

**ORDER**

**Aftab Ahmed Gorar, J-** Through instant Criminal Bail Application, the applicant/accused Aamir S/o Abdul Rehman Narejo, seeks pre-arrest bail in Crime No.01 of 2021 registered at Police Station, Ahmedpur District Khairpur, for offences punishable under Sections 324, 109 and 34 PPC.

2. The facts of the prosecution case, in brief are that on 05.01.2021 at 1500 hours, complainant Ali Sher Narejo lodged FIR at police Station, Ahmedpur, which allegedly took place on 13.04.2020 at 2300 hours, stating therein that he was rotating the water to his sugarcane crops, when one Abdul Rehman Narejo came there and exchanged harsh words with him over the rotation of water and went away while issuing threats. It is alleged that in the night time he (complainant) along with his son Hafeezullah, nephew Qaimuddin, were available in their otaq, solar bulbs were glowing, it was 11:00 pm (night) accused Aamir, Achhal and Ghulam Asghar with pistols,

and one unknown person with Gun. Out of them, accused Aamir Narejo challenged and made direct pistol shot with intention of murder upon him (complainant) which hit on his right nipple, while accused Acchal made direct pistol fire which also hit him on his right arm, he fell-down and raised cries, which attracted the co-villagers, hence such FIR was registered, as stated above.

3. The applicant on having been refused pre-arrest bail by the Court of learned 3<sup>rd</sup> Additional Sessions Judge, Khairpur vide order dated 03.02.2021 hence he has sought the same from this Court by way of instant 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 rotation of water and such fact is admitted in the FIR; that there is delay of more than seven (07) months in lodgment of the FIR, for which no plausible explanation has been furnished; that the general role of firing is attributed to the applicant/accused upon the complainant; that the alleged incident has taken place in the odd hours of the night and identity of the applicant/accused is shown on the light of solar bulb, which is a weakest type of evidence, therefore, the false implication of the applicant/accused cannot be ruled out; that the provisional medical certificate issued by the Medical Officer, wherein the kind of weapon used in the commission of the alleged offence was reserved; that one Hafeezullah, son of the present complainant has filed an application u/s 22-A and 22-B Cr.P.C in the month of

October, 2020 seeking registration of the FIR, but he has exaggerated the facts; that the facts as setout in the FIR as well as in the memo of Criminal Miscellaneous application u/s 22-A and B Cr.P.c are contradictory; that there is malafide on the part of the complainant to involve the present applicant/accused in a false case; that there is no independent eye-witness of the incident. 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. Learned counsel for the complainant opposed for grant of pre-arrest bail to the applicant/accused by contending that admittedly there is delay in lodgment of the FIR, but it happened as the applicant/accused party approached the complainant party and kept them on false consolation that the matter will be resolved by way of faisla; that the facts as seout in the FIR as well as application u/s 22-A and 22-B Cr.P.C, are same; that the applicant/accused has failed make out a case for grant of extraordinary concession of grant of pre-arrest bail, therefore, the instant bail application is liable to be set-aside.

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 dispute between the parties over the rotation of water; that the incident has taken place in the odd hours of the night and the identification is shown on the bulb light; that there is delay of more than 07 months

in lodgment of the FIR, for which no plausible explanation has been furnished by the complainant.

7. I have heard the learned counsel for the applicant/accused, learned counsel for complainant as well as learned Deputy PG for the State and perused the record. The FIR of the incident has been lodged with delay of more than seven (07) months and such delay having not been explained plausibly by the complainant could not be ruled-out, which appears to be significant. The allegation as per FIR against the applicant/accused is that he made direct pistol shot which hit on the right nipple of the complainant Ali Sher Narejo, whereas, the incident has allegedly taken place in the odd hours of the night, and the identity is shown on the light of bulbs, which is a weak piece of evidence. 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 12.02.2021 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. The observations made herein above are tentative in nature and will not prejudice the case of either party.

8. The instant bail application is disposed of accordingly.

Judge