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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No.S-413 of 2018

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| Date of Hearing | ORDER WITH SIGNATURE OF JUDGE |
| 02.10.2018. | |

1. For orders on office objections.
2. For hearing of Bail Application.

Mr. Mohammad Suhail Kalhoro, advocate for the applicant, along with the applicant.

Mr. Khadim Hussain Khooharo, Addl. P.G.

Ms. Nisho Fatima Virkh, advocate for complainant, along with the complainant.

Through instant criminal bail application, applicant Mukhtiar Ali son of Ali Gohar Kalhoro seeks pre-arrest bail in Crime No.29/2018, registered at Police Station Gerello, District Larkana, under Sections 337-A(ii), 337-F(i), 504, 147, 148, PPC. His earlier application for pre-arrest bail bearing Criminal Bail Appln. No.987/2018 was heard and dismissed by the learned VI-Additional Sessions Judge, Larkana vide order dated 04.8.2018. The applicant was admitted to ad-interim pre-arrest bail by this Court vide order dated 10.8.2018, now the matter is fixed for confirmation of the same or otherwise.

2. Brief facts of the prosecution case as narrated in the aforementioned FIR are that there was previous ill-will between the complainant and applicant parties, as such, on 08.7.2018, at 10.00 p.m. while the complainant along with P.Ws was standing at the gate of his house, applicant along with four others named in the FIR and one unidentified culprit, duly armed with deadly weapons, reached there, out of them applicant while abusing caused sharp side hatchet blow to the complainant on his head and in result thereof blood started oozing, while co-accused Saddam caused pistol butt blows to the complainant at his back and other parts of his body, while co-accused persons caused lathi and butt blows to the complainant.

3. Learned Counsel for the applicant states that the applicant is innocent and has falsely been implicated in this case; that there is delay of 10 days in lodging the FIR, for which no plausible explanation has been furnished by the complainant and hence the deliberation and consultation before recording of FIR by the complainant cannot be ruled out; that the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C; that as per the FIR, the accused caused hatchet blow from front side, while as per the medical certificate the complainant sustained injuries caused from blunt side; that the applicant after grant of ad-interim pre-arrest bail by this Court is

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attending the trial Court regularly and he has not misused the concession of bail.

4. On the other hand, learned Counsel for the complainant as well as learned Addl. P.G oppose this application, on the grounds that the applicant is nominated in the FIR by name and he has played active role in the commission of alleged offence by causing hatchet blow to the complainant.

5. Heard the learned Counsel for the parties and perused the material available on record.

6. It appears that the police after completion of investigation has submitted the challan against the applicant, hence is not required by the police for further investigation. It further appears that as per the medical report the injuries allegedly sustained by the complainant are "Shajjah-i-Madihah" and falling under sections 337-A(ii), PPC punishable for five years and "Jurh Ghayr Jaifah Damiyah" 337-F(i), PPC. Offence under Section 337-F(i) and 504, PPC are bailable, hence the case of applicant does not fall within prohibitory clause of Section 497, Cr.P.C. It is also an admitted position that after obtaining ad-interim pre-arrest bail, the applicant is attending the trial Court regularly and there is no complaint of misusing of concession of bail by him, hence the interim pre-arrest bail granted to the applicant vide order dated 10.8.2018 is confirmed on the same terms and conditions.

7. Needless to mention here that in case the applicant misused the concession of bail in any manner, the trial Court shall be at liberty to cancel the same by issuing him notice as per rules.

8. Bail application stands disposed of.


JUDGE