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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Bail Application No.S- 495 of 2024

Date of hearing	Order with signature of Judge.
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1. For orders on office objection.
2. For hearing of bail application.

Applicant : Gul Hassan Noonari,
Through Mr. Abdul Rauf Memon, Advocate.

The State : Through Mr. Aitbar Ali Bullo, Deputy Prosecutor
General.

Date of hearing : 03.02.2025.
Date of Order : 03.02.2025.

O R D E R

Khalid Hussain Shahani, J.- Applicant Gul Hassan Noonari is seeking pre-arrest bail in Crime No.92 of 2024, registered at P.S A-Section, Thul, District Jacobabad, for offence under Sections 147, 148, 149, 337-F(v), 337-L(ii), 504, PPC. Such request of the applicant was turned down by the learned Sessions Judge, Jacobabad vide order dated 05.07.2024.

2. According to the case of prosecution, on 04.05.2024, at about 8.00 p.m. time, near Bashir Shah Plotting situated on the link road leading towards Tangwani, the applicant along with co-accused Imdad Ali, Arbab Ali, Ali Hassan, Muhammad Hassan and Younis, attacked upon the complainant party owing to the previous matrimonial dispute, wherein the applicant inflicted lathi blow to PW Mst. Rubina on her left hand, whereas, co-accused Imdad Ali and Ali Hassan also inflicted lathi blows to complainant Sundar Khan on his left hand and right side forearm.

3. Heard learned Counsel for the applicant, learned DPG for the State and perused the material made available on the record.

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4. Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in this case along with other family members/close relatives. He has placed on record certain documents through his statement and contends that there is admitted dispute between the parties over matrimonial affairs. He next submits that the offence does not fall within prohibitory clause of Section 497, Cr.P.C. Lastly, the learned Counsel contends that co-accused have been granted pre-arrest bail by the learned Sessions Judge, Jacobabad, therefore, the applicant is also entitled to same concession on the principle of consistency.

5. Learned DPG submits that the applicant is named in the FIR with specific role of causing lathi injury to injured PW Mst. Rubina. He however could not controvert that the injury sustained by the said witness, which is attributed to the applicant, carries maximum punishment of five years; thus, does not attract the prohibition contained in Section 497, Cr.P.C. Therefore, he has no objection for confirmation of interim pre-arrest bail earlier granted to the applicant.

6. Per FIR, the incident is shown to have occurred on 04.05.2024 and the report was lodged on 13.06.2024 i.e. with the delay of about 40 days and no plausible explanation has been put forward for such an inordinate and scandalous delay. The applicant is undeniably named in the FIR and the role of causing lathi blow to PW Mst. Rubina at her hand is also attributed to him; however, the injury of Mst. Rubina from medical point of view has been declared to be *Jurh Ghayr Jaifah Hashimah* falling under Section 337-F(v) of the Pakistan Penal Code. The maximum punishment prescribed under the law for the said injury is 05 years and the case is being tried by the Magisterial Court, where even if the charge against the accused is established, the punishment of more than 03 years cannot be

expected. Apart from that, the parties also appear to be on disputed terms over the matrimonial issues; hence, false implication of applicant in commission of offence could not be ruled out. In this view of the matter, the basic requirement for grant of pre-arrest bail, as laid down by the Hon'ble Supreme Court of Pakistan in the case of *Rana Muhammad Arshad v. The State (PLD 2009 SC 427)* is fully attracted. Besides, co-accused have also been granted pre-arrest bail by the learned Sessions Judge, Jacobabad.

7. Cumulative effect of the above is that the applicant, in my humble view, has a good case for grant of pre-arrest bail. Accordingly, instant bail application is allowed. The interim pre-arrest bail granted to the applicant on 30.08.2024 is confirmed on same terms and conditions. He is directed to join the investigation/trial, as the case may be.

8. The observations recorded hereinabove are tentative in nature, which shall not influence the trial Court, in any manner, during the trial.



JUDGE