

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3045 of 2024

Applicant : Jamal Nasir S/o Muhammad Umer
Khushk through Mr. Ghazali Shaikh,
Advocate

Complainant : Samina D/o Manzoor Ahmed
through Mr. Faisal Ahmed A. Memon,
Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl. P.G.,
Sindh

Date of hearing : 03.02.2025

Date of order : 03.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.292/2024 for the offence under Section 324 PPC registered at PS Frere, after his bail plea has been declined by the learned VIIIth Additional Sessions Judge, Karachi South vide order dated 16.12.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant is reluctant to proceed with the matter. This is interim pre-arrest bail which was granted to him on 03.12.2024. Since then no progress is made. However, learned Addl. P.G. is directed to read over the FIR, as such, she reads over the same. Applicant and his counsel were again asked to proceed with the matter. Learned counsel for the applicant only submits that this is a dispute between husband and wife and the applicant has not committed any offence, as such, his bail may be confirmed.

4. On the other hand, learned counsel for the complainant and learned Addl. P.G. have opposed for confirmation of bail to the applicant.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that on the day of incident, accused came to home when the complainant informed him that she is not well on which he asked her that you always make *drama* and started torturing her. Subsequently, his family members also came there and in the meantime, the accused took out his pistol and fired upon her, which hit on her left leg. Resultantly, she was shifted to the hospital. The Section in which the applicant has been booked falls within prohibitory clause of Section 497 Cr.P.C. and the punishment is 10 years. The ocular evidence finds support from the medical evidence. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of '**Rana Abdul Khaliq v. The STATE and others**' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 31.12.2024 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA