

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Appln. No. S-559 of 2024

Applicant	:	Niaz Hussain Jeho Through Mr. Ghulam Rasool M. Narejo, advocate
Complainant		Mst. Yasmeen Khatoon Jeho, Through Mr. Habibullah G. Ghouri, advocate
The State	:	Mr. Aitbar Ali Bullo, D.P.G for the State
Date of hearing		26-05-2025
Date of order		26-05-2025

ORDER

AMJAD ALI SAHITO, J.- Through instant criminal bail application, applicant/accused Niaz Hussain Jeho seeks interim pre-arrest bail in Crime No.95/2024, registered at Police Station Naudero, for the offence U/s 337-A(i), 337-F(i), 337-F(v), 506/2, 114 P.P.C. Prior to this, he filed such application but the same was turned down by the Additional Sessions Judge, Ratodero, vide order dated 20.09.2024, hence he has filed instant criminal bail application.

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 submits that the applicant is innocent and he has falsely been implicated in this case by the complainant due to malafide intention; that there is delay of 50 days in lodging of F.I.R, for which no plausible explanation has been furnished by the complainant; that there are general allegations against the present applicant and other co-accused, which will be determined at the time of trial as to who caused the fatal injury to injured P.W Ali Akbar mentioned in the F.I.R; that all the Sections are triable by Magistrate, hence fall within the prohibitory clause of Section 497 Cr.P.C. He further submits that after grant of interim pre-

arrest bail, the applicant is regularly attending the trial court and did not mis-used the concession of bail

4. On the other hand, learned D.P.G. assisted by learned counsel for the complainant has vehemently opposed for grant of interim pre-arrest bail on the ground that specific role of causing lathi blow to P.W Ali Akbar has been assigned to the applicant/accused, therefore, he is not entitled for concession of interim pre-arrest bail.

5. Heard the learned counsel for the applicant, learned D.P.G, learned counsel for the complainant and perused the material available on record.

6. From perusal of record, it reflects that near about seven persons duly armed with lathis appeared at the house of the complainant party, wherein they have attacked upon the complainant party as the accused Awais and Niaz caused lathi blows to P.W Ali Akbar, which hit on his head, left hand and on other parts of the body, resultantly his two fingers were fractured.

7. At this stage only a tentative assessment is to be made. The ocular version finds support from the medical evidence. Injured witnesses in their 161 Cr.P.C statements have fully supported the version of the complainant. No ill will or malafide has been pointed out by the learned counsel for the applicant against the complainant.

8. Today the applicant is called absent, however, the learned counsel for the applicant submits that he was present in the morning but when the matter was called, he is unable to attend the court, which shows that they have mis-used the concession of pre-arrest bail.

9. Further for grant of pre-arrest bail the essential requirements are malafide and ulterior motives those are missing in this case. In this respect, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [**2019 SCMR 1129**], wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner 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 investigation... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

10. Sufficient material is available on the record to connect the applicant with the commission of offence. In view of above, the learned counsel for applicant/accused has failed to make out the case for confirmation of interim pre-arrest bail. Resultantly, instant bail application is dismissed and the interim pre-arrest bail earlier granted to the applicant/accused is hereby recalled.

11. 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 either party at trial.

J U D G E

Abdul Salam/P.A