

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

**Crl. Bail Application No. S- 95 of 2019**

Muhammad Aslam Chang.....Applicant

Versus.

The State..... Respondent

For Hearing of bail application.

Mr. Sadam Hussain Leghari Advocate along with applicant.

Mr. Nusrat Hussain J. Memon Advocate for the complainant.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

**Date of hearing:** 23-04-2019

**Date of decision:** 23-04-2019

**ORDER**

**ZAFAR AHMED RAJPUT J.,** Through instant Crl. Bail Application, applicant/accused Muhammad Aslam s/o Muhammad Qasim by caste Chang has sought pre-arrest bail in Crime No. 188 of 2018, registered at P.S, Faiz Ganj under Sections 324, 337H(2), 147, 148 & 149 P.P.C. The applicant was admitted to ad-interim bail by this Court vide order dated 06.02.2019, now he seeks confirmation of the same.

2. The allegations against the applicant, as per FIR, are that on 03.07.2018 at 1500 hours, he duly armed with pistol fired upon complainant party, which hit to Mazhar Ali, nephew of the complainant, on his right knee joint.

3. After hearing the learned counsel for the applicant, complainant, Additional P.G and perusing the material available on record, it appears that the injury allegedly caused to injured Mazhar Ali was declared by Medico legal Officer as Ghayr Jaifah Hashima-

FHCE. For the interpretation of FHCE, M.O, Dr. Bashir Ahmed Sahito of RHC, Faiz Ganj-Khairpur was called vide order of this Court dated 16.04.2019. Today, he is present and through statement submits that it means “*friendly hand cannot be excluded*”, which means ‘self-suffered’. Even the alleged injury being punishable under Section 337-F(v) P.P.C for five years, does not fall within the prohibitory clause of Section 497 Cr.P.C. There is delay of 03-months and 11-days in lodging of the FIR, which has not been explained by the complainant, hence consultation and deliberation in lodging of FIR cannot be ruled out. It is an admitted fact that the parties have inimical terms due to dispute over the landed property which is pending before the Court of Senior Civil Judge, Mirwah vide Suit No. 85 of 2018 and prior to said suit, Mst. Hanifa Chang, predecessor-in-interest of the complainant lodged FIR No. 202 of 2015 under Section 380 P.P.C at P.S, Faiz Ganj against the applicant, which was disposed of under cancellation class. Thereafter, said Mst. Hanifa filed Crl. Misc. Application before learned Sessions Judge/Justice of Peace, Kharipur, which was also dismissed, hence malice on the part of complainant to implicate the applicant cannot be ruled out. The alleged injury is on non-vital part of the body of the injured, thus it cannot be said with certainty that the applicant had an intention to commit murder of the injured. As such, the question of applicability of Section 324, P.P.C to the case needs serious consideration at the trial stage. Accordingly, interim pre-arrest bail earlier granted to the

applicant vide order dated 06.02.2019 is hereby confirmed on same terms and conditions.

4. Needless to mention here that in case applicant misuses the concession of bail in any manner whatsoever, learned trial Court shall be at liberty to cancel the bail of the applicant after serving him requisite notice, as per law.

**J U D G E**