

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No. S- 07 of 2022.

Date

Order with signature of Hon'ble Judge

1. For orders on office objection as flag A.
2. For hearing of bail application.

30.5.2022.

Mr. Ahmed Bux Abro, advocate for the applicant alongwith applicant Siraj Ahmed Mari on bail .

Mr. Mazhar Ali Mangan, advocate for the complainant..

Mr. Ali Anwar Kandhro, Addl. P.G.

O R D E R.

MUHAMMAD SALEEM JESSAR-J.:- Through this application, applicant Muhammad Ali Shah seeks pre arrest bail in Crime NO. 103 of 2021 registered with P.S Taluka Larkana for offence under Section 337-F(v), 504, 34, 506/2 PPC.

Learned counsel for the applicant submits that the allegation against applicant Siraj Ahmed Mari is that he allegedly caused repeater butt blow to injured P.W/complainant Ahsan Ali mari which landed on his left shoulder, therefore, he rushed to hospital where Medico Legal Officer issued medico legal certificate in his favour by opining the injury to be falling under Jurh Ghyr Jaifah Hashimiah punishable under Section F(v) PPC. He next submits that the accused challenged vires of said medico legal certificate before Special Medical Board Larkana which convened its meeting on 09.02.2022 and all the members of the Board have unanimously given remarks in following terms.

" Concerned MLO has not mentioned the nature of injury however, the examination done by Special Medical Board reveals the injury as shajah e khafifah."

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He further submits that ocular version has been belied by medical evidence therefore, case against the applicant requires further enquiry and prays for confirmation of his bail.

Learned Addl. P.G in view of above development does not oppose the bail application. However, Mr. Mazhar Ali Mangan, counsel for the complainant opposes the bail application on the ground that applicant had caused fracture on the shoulder of the injured/complainant, therefore, he is not entitled for the bail.

Heard argument. Perused the record.

Admittedly the FIR is delayed for about more than five months but no plausible explanation has been furnished by the prosecution for such an inordinate delay. Per Opinion of Special Medical Board, the injury as opined by Medico Legal Officer was not available on the person of the injured and somewhere else i.e his skull was found to have had simple injury for which the Medical Board has given its opinion. The opinion of the Special Medical Board reveals that the application of Section 337-A(i) PPC is falling under definition of Shajah e Khafifah which is bailable. As far as Section 506/2 PPC is concerned, it carries maximum punishment upto seven years; however, it is yet to be established by the prosecution after recording evidence of the prosecution witnesses.

In view of above factual position and legal position, applicant has made out good prima facie case for his admission on pre arrest bail within the definition of subsection 2 of Section 497 Cr.P.C. Consequently instant bail application is allowed. Interim pre arrest bail granted to the applicant on 07.01.2022 is hereby confirmed on the same terms and conditions.


JUDGE