

(51)

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Bail Appln. No.S- 61 of 2024.

Date of hearing

Order with signature of Judge.

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

Applicant (Zahid Ali) : Through Mr. Nisar Ahmed G. Abro, Advocate.
The State : Through Mr. Ali Anwar Kandhro, Addl. P.G.
Date of hearing : 14.3.2024.

ORDER.

MUHAMMAD SALEEM JESSAR:- Through this application, applicant Zahid Ali seeks his admission on pre arrest bail in Crime No.02 of 2024 of P.S Guddu, District Kashmore @Kandhkot, registered for offence punishable under Sections 337-F(v), 337-A(i), L(ii), 147, 148 PPC. Applicant filed anticipatory bail application before the Court of Sessions where initially he was granted interim pre arrest bail vide order dated 13.01.2023 and subsequently it assigned to learned Additional Sessions Judge, Kashmore vide Cr.Bail Appln. No.59 of 2024 where after hearing the parties its confirmation was declined vide order dated 18.01.2024, hence this application has been maintained.

2. The facts of the prosecution are already mentioned in FIR as well as memo of bail application therefore, the same are not required to be repeated here.

3. Learned counsel mainly contended that applicant is innocent and has been falsely implicated due to previous murderous enmity which is also admitted by the complainant in the FIR; there is delay of four days in lodgment of FIR for which no plausible explanation has been furnished by the prosecution; the role attributed to the present applicant is that he allegedly caused lathi blow to P.W Parvez Ahmed which hit him on his right hand fist and little finger which falls under Section 337-F(v) PPC and carries punishment upto five years, hence same does not exceed the limit of prohibitory clause of section 497 Cr.P.C. He further contended that co-accused Muhammad Shabeer, Mehran and Shafi Muhammad having similar role of causing lathi blows have already been granted pre arrest bail by learned Additional Sessions Judge Kashmore vide order dated 18.01.2024. On all these scores, learned counsel prayed that the present applicant is also entitled to the concession of bail.

5. In view of role attributed to the applicant as well as the injury having been declared by the Medico Legal Officer and its punishment not exceeding

limits of prohibitory clause, learned Addl. P.G. does not oppose the bail application. Complainant inspite of notice has chosen to remain absent.

6. Admittedly incident occurred on 31.12.2023 whereas the FIR was lodged on 03.01.2024 with the delay of about three days; however, no plausible explanation has been furnished by the prosecution for such an inordinate delay. The role attributed to applicant Zahid Ali is he allegedly caused lathi blow to injured P.W Pervaiz which hit him on his little finger of right hand. Said injury has been declared by the Medico Legal Officer to be punishable for Jurah Ghyr Jaifah Hashmiah which fall under Section 337-F(v) PPC which carries maximum punishment upto five years, hence does not exceed limit of prohibitory clause of Section 497 Cr.P.C. Co-accused Muhammad Shabeer, Mehran and Shafi Muhammad having similar role of causing lathi blows to the P.Ws have been admitted to bail. In the circumstances, the applicant deserve to be granted bail on rule of consistency. After furnishing surety before this Court, the accused has joined trial/surrendered before the trial Court i.e 1st Civil Judge and Judicial Magistrate/MTMC, Kashmore, on 01.2.2024 vide Criminal Case No.12 of 2023 re: State v. Zahid Ali and others. He, therefore, is no more required by the police for the purpose of investigation or interrogation.

7. In view of dicta laid down by hon'ble Apex Court in the case of Muhammad Tanveer v. The State (PLD 2017 S.C 733), the case against the applicant requires further enquiry within meaning of sub-section 2 of Section 497 Cr.P.C.

8. In the circumstances and in view of above legal cum factual position, the case against the applicant requires further enquiry. Accordingly, instant bail application is hereby allowed. Ad interim pre arrest bail granted to the applicant vide order dated 31.01.2024 is hereby confirmed on the same terms and conditions.

9. It is needless to say that observations made herein above are tentative in nature which shall not influence the mind of the trial Court while deciding fate of the case after conclusion of the trial.

The application stands disposed of.

JUDGE

shabir