

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Bail Application No.S-353 of 2024

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on O/objection at flag-A.
- 2. For hearing of bail application.

Date of hearing **30.09.2024.**

Mr. Hamayoon Shaikh, Advocate for applicant.

Mr. Zaffar Ali Shaikh, Advocate for complainant.

Mr. Khalil Ahmed Maitl, DPG for State.

ORDER

Applicant Rajab Ali seeks Pre-arrest bail required in Crime No.65/2024 registered at Police Station, Saleh Pat for offence under Sections 324, 114, 337A(i), 337F(i), 114, 504, 147, 148, 149 PPC.

According to the FIR the specific allegation against the present applicant Rajib Ali is of causing back side hatchet blow to complainant’s mother-in-law with intention to commit his murder.

Learned counsel for applicant contends that cross/counter version of the FIR is present in the matter and same is liable to be considered at bail stage. He further contended that there is one day delay is present to which explanation has not come-up and that the same role has been attributed to others who have been granted the concession of bail and as such the applicant is also entitled. He also contends that the similar persons having obtained bail same has not been challenged and as such the applicant is also liable to be considered for bail.

Learned counsel for the complainant, however, contended that Section 337F(ii) is not applicable whereas the Section 324 is present. He

further contends that bail application granted to other persons involving in the incident have been challenged. It is also contended that specific role has been attributed to the present applicant.

Learned Deputy Prosecutor General contends that in respect of cross-versions re-entertainment is not so simply available and in this regard he has referred to *2020 SCMR 1434*. He also contends that specific role has been attributed causing injury to the vital part and that the final medical certificate coming out in the matter has determined the injuries as *Shujja-i-Hashima and not of Shujja-i-Khafifah* which carries the punishment of 10 years. He lastly contends that no *malafide* has been shown for entertainment u/s 498 Cr.P.C.

In rebuttal learned counsel for the applicant contends that for applicability of Section 324 PPC, aggression should be made twice which is not coming up in the present matter.

Having heard learned counsels and gone through the record. It is considerable that this is a pre-arrest bail application. The requirement for pre-arrest bailment is to show malafide apart from making out a case available under Section 497 Cr.P.C. The applicant making out a case of under Section 497 Cr.P.C, can obtain bail by simply calling for qualify for entertainment under the procedure u/s 498-A Cr.P.C. In the present matter a tentative conclusion is to be required from the material present. Apparently, there is aggression to which the version of the FIR relating to the allegation against the present applicant are found to be of nature which does not allow entitlement u/s 497 Cr.P.C, in a tentative form as the same is supported medical certificate present in the matter. To appreciate the alleged *malafide* especially in a counter-version cannot be so conveniently entertained by this Court and may be available with the trial Court as the required material has not been brought-up in the

matter. Present bail application is found not tenable and stands dismissed. Accordingly, order dated 30.05.2024 is recalled and bail application is dismissed. Applicant is directed to surrender himself before the trial Court and face the trial.

Needless to mention here that observations made herein above are tentative in nature and trial Court may not be influenced of the same and decide the case on its merits.

Bail application stands disposed of in the above terms.

J U D G E

Ihsan/PS