

ORDER-SHEET  
**IN THE HIGH COURT OF SINDH CIRCUIT  
COURT HYDERABAD**

Criminal Bail Application No.S- 952 of 2018

Date of hearing: 31.01.2019.  
Date of order: 31.01.2019.  
Applicant: Through Mr. G. M. Leghari, Advocate.  
Respondent / State Through Ms. Sobia Bhatti, Asst: Prosecutor General.  
Complainant present in person.

**ORDER**

**Zulfiqar Ahmad Khan, J:** - Through instant Criminal Bail Application, applicant Ali Nawaz seeks post-arrest bail in Crime No.74/2018, registered at Police Station Bulri Shah Karim, under sections 452, 336, 337-L(ii), 504, 34 PPC.

2. Precisely, relevant facts of the case are that on 02.07.2018 complainant alongwith his wife Mst. Salimat and son Noor Ahmed was present in his house when at about 3-00 P.M, applicant/accused Ali Nawaz having iron rod alongwith co-accused Muhammad Raheem and Mst. Maryam (wife of co-accused Muhammad Raheem) having lathies in their hands entered into the house of complainant by way of criminal trespass, used abusive language, thereafter accused Ali Nawaz in furtherance of their common intention caused iron rod blow to Mst. Salmat (wife of the complainant) on her right eyelid, accused Muhammad Rahim and his wife Mst. Mariam caused injuries to Mst. Salimat on left forearm.

3. At the outset, learned counsel for the applicant, *inter alia*, contends that the applicant is innocent and has falsely been involved in the case in hand by

the complainant on account of some civil dispute; that there is delay of 35 days in lodging the FIR which was not plausibly explained by the complainant; that as per F.I.R the accused persons have committed the alleged offence at day time, as such, it is very strange that no any person residing in the said locality saw the accused while they were committing such offence; that all the PWs are near relatives of the complainant hence interested. In support of his contentions, learned counsel has placed reliance on the cases reported as 2018 MLD 359, 2010 YLR 1229, 2017 MLD 399 and 2010 YLR 1229.

4. Complainant Qadir Bux is present in Court and submits that he being a poor person is not in a position to engage the counsel and reposes his trust on A.P.G.

5. Conversely, learned A.P.G while opposing the grant of instant bail application contends that the name of present applicant/accused appears in FIR with specific role of causing iron rod injury to the wife of complainant namely Mst. Salimat hence he is not entitled for concession of bail.

6. I have heard the arguments advanced by the respective parties and gone through the entire material available before me.

7. Admittedly, the name of present applicant/accused transpires in FIR with specific role of having caused iron rod injury to Mst. Salimat (wife of the complainant) which caused damage/loss of eye. The statements of eye witnesses recorded u/s 161 Cr.P.C. fully support the version of complainant as well as corroborate the medical evidence. Crime weapon viz. iron rod used by the applicant/accused in the commission of offence has also been produced by him during investigation which connects him in the commission of offence. Furthermore, the offence u/s 336 PPC is punishable upto 10 years hence fall

within the prohibitory clause of Section 497 Cr.P.C. So far contention of the learned counsel for applicant that co-accused Muhammad Raheem has been granted bail by the trial Court, apparently the role assigned to co-accused Muhammad Raheem is on different footing to that of present applicant/accused as discussed in the trial Court order. It is well settled law that mere delay in lodging of the FIR is not sufficient to grant bail to the accused. The case law cited by learned counsel for the applicant/accused are on different footings to the case in hand.

8. For what has been discussed above, I am of the considered view that the applicant/accused has failed to make out a case of further inquiry as envisaged under sub-section 2 of Section 497 Cr.P.C. Accordingly, instant bail application is dismissed, however, it has been pointed out that charge has been framed and evidence of some PWs have also been record by the trial Court and the trial is near to conclude, consequently, trial Court is directed to expedite the trial and conclude the same preferably within a period of two (02) months.

9. The observations made hereinabove are tentative in nature and shall not influence the trial Court at the time of trial.

JUDGE

Tufail