

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail Application No.S-960 of 2021

Applicant : Mir Muhammad Son of Dad Muhammad, through Mr. Muhammad Ali Shaikh, Advocate.

Respondent : The State
Through Mr. Nazar Muhammad Memon, Additional Prosecutor General, Sindh.

Date of hearing : **01.11.2021**

Date of Order : **01.11.2021**

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the applicant/accused above named seeks his pre-arrest bail in Crime No.26 of 2021, under sections 324, 504, 34, 337-A(i), 337-F(iii), P.P.C, registered at P.S Gupchani District Shaheed Benazirabad, after his bail plea was declined by the learned Vth Additional Sessions Judge/MCTC, , Shaheed Benazirabad vide order dated 17.09.2021.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Per learned counsel no role is assigned against the applicant/accused in commission of offence but specific injuries have been attributed to co-accused Manthar, even otherwise his mere presence has been shown at the place of incident. He further contended that due to enmity the applicant/accused has been falsely implicated in this case. He lastly prayed for confirmation of interim pre-arrest bail.

4. On the other hand learned Additional Prosecutor General, Sindh opposed for confirmation of interim pre-arrest bail and submits that common intention is shared by the applicant/accused, as such, he is not entitled for concession of bail.

5. I have heard learned counsel for the applicant as well as Additional Prosecutor General, Sindh and gone through the record available.

6. Perusal of record reflects that on the day of incident applicant's mere presence has been shown in the F.I.R at place of offence. No effective role has been attributed to the applicant/accused. It is yet to be determined at trial whether the applicant/accused has shared the common intention or not when the evidence will be recorded. At bail stage only tentative assessment is to be made.

7. In view of above, the case of the applicant/accused falls within the ambit of sub-section (2) of section 497 Cr.P.C and learned counsel for the applicant/accused has pleaded malafide on the part of the complainant for his false implication in this case which cannot be ruled out, therefore, the bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicant/accused by this Court vide Order dated 25.10.2021, is hereby confirmed on the same terms and conditions. The applicant/accused is directed to attend the learned Trial Court regularly if the applicant/accused fails to appear the Trial Court would be at liberty to take actions against him in accordance with law.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE

*Muhammad Danish**