

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

### Crl. Bail Application No. S- 219 of 2020

For hearing of bail application

Mr. Habib-ur-Rahman Shaikh Advocate for applicant.  
Mr. Zulfiqar Ali Jatoi, Additional P.G for the State.

**Date of Hearing: 04-09-2020**  
**Date of Order: 04-09-2020**

### **ORDER**

**Aftab Ahmed Gorar J.** Through instant Crl. Bail Application, applicant Bakhshan Khan Lashari seeks post-arrest bail in Crime No.153 of 2019, registered at P.S, Kotdiji, for the offences under Sections 337F(i), 337F(iii), 337L(2), 504 & 34 PPC. Earlier the bail plea of applicant was declined by learned trial Court vide order dated 23.04.2020. Notice issued to complainant returned served, but he is called absent.

2. The allegation against the present applicant is that on 01.12.2019, he along with other accused persons, named in the FIR, duly armed with Lathies came at the land of complainant party and on refusal to pay the share to the accused from land, present applicant caused three Lathi blows to PW Jalaluddin resulting into serious injuries. Consequently above FIR was lodged.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has falsely been inducted in this case by the complainant; that there is delay of one day in lodgement of FIR,

for which no plausible explanation has been furnished; that all the sections applied in the FIR are bailable except Section 337F(iii) PPC, which carrying punishment of five years does not fall within prohibitory clause of Section 497 Cr.P.C; that considerations for grant of pre-arrest bail and post-arrest bail are altogether different; that applicant is behind bars since last six months; that Challan has been submitted, hence applicant is no more required for further investigation. He prayed for grant of bail to the applicant.

4. As against these arguments, learned Additional P.G for the State opposed this bail application on the ground that applicant nominated in the FIR with specific role of causing Lathi injuries to injured PW-jalaluddin; that earlier pre-arrest bail of the present applicant was turned down by this Court on merits vide order dated 10.02.2020 passed in Crl. B.A.No.S-735 of 2019, therefore, applicant deserves no leniency of bail.

5. Heard learned counsel for the parties and perused the material available on record meticulously. Admittedly, the offence with which applicant is charged does not fall within the prohibitory clause of Section 497 Cr.P.C, as all the sections applied in the FIR are bailable except Section 337F(iii) PPC, which carries punishment of five years. Even otherwise, application of said section is to be determined by the trial Court after recording evidence. No doubt, the pre-arrest bail plea of the applicant was turned down by this Court vide order dated 10.02.2020 in Crl. B.A.No. S-735 of 2019, but after refusal of pre-arrest bail, applicant has remained in jail for a period of about six months and

it is also a settled principle of law that considerations for grant of pre-arrest bail and post-arrest bail are altogether different. Challan has been submitted; as such the applicant is no more required for further investigation.

6. For what has been discussed above, I am of the considered view that the applicant has succeeded to make out a case for further enquiry, as envisaged under Sub-Section 497(2) Cr.P.C. Accordingly, applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs. 100,000/-(One Lac) with PR bond in the like amount to the satisfaction of trial Court.

7. Before parting with this order, it is directed that any observations recorded in this order, being purely tentative in nature, should in no way prejudice the proceedings before the learned trial Court where the case be decided strictly on its own merits after recording evidence.

8. The instant Crl. Bail Application stand disposed of in the above manner.

**J U D G E**

Ahmad