

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Bail Appln. No. S- 313 of 2021.

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection as flag A.
2. For hearing of bail application.

15.4.2022.

Mr. Nadeem Ahmed Qureshi, advocate for the applicant a/w applicant on bail.

Mr. Ali Anwar Kandhro, Addl. P.G.

O R D E R.

MUHAMMAD SALEEM JESSAR-J.:- Through this application, applicant Hajjan Ali Syed is seeking pre arrest bail in Crime NO. 21 of 2021 of P.S Areeja U/S 337-A(ii), 147, 148, 504, 149 PPC, after his bail plea was declined by learned IVth Additional Sessions Judge, Larkana vide order dated 06.07.2021.

Learned counsel submits that there are cross cases between the parties in the same incident which took place on 18.6.2021. Applicant also sustained injuries at the hands of complainant party therefore, FIR bearing Crime No.20 of 2021 was registered with P.S Areeja under Sections 337-A(i), 337-F(i), 147, 148, 149 and 114, PPC. He next submits that role attributed to the applicant is that he allegedly caused hatchet blows to P.W Muhabat which landed on his head; the injury sustained by injured has been declared by the medico legal officer as "Shajah e Madiyah" falling under Section 337-A(ii), PPC, hence it does not exceed the limit of prohibitory clause of Section 497, Cr.P.C. He further submits that the FIR was lodged with delay of four days and the case before trial Court has proceeded and the applicant has not misused the concession extended to him.

Learned Addl. P.G appearing for the State does not oppose the bail plea on the ground that the punishment provided by the law for offence U/S 337-A(ii) PPC is five years which does not exceed the limits

of prohibitory clause of Section 497, Cr.P.C and there are cross cases between he parties.

Process issued against complainant is returned served, taken on record. However, no one has appeared on behalf of the complainant nor intimation is received thus obviously complainant and his counsel inspite of notices have chosen to remain absent.

Admittedly, the incident is said to have taken place on 18.6.2021 and FIR was lodged on 22.6.2021; though the FIR lodged by the present applicant against the complainant party was registered on 20.6.2021, however both parties claim against each other to be the aggressor and which one was aggressor is a question yet to be determined by the trial Court after recording evidence of the parties. Offence with which applicant is charged carries maximum punishment upto five years, which does not exceed the limits of prohibitory Clause of Section 497, Cr.P.C.

In the circumstances and in view of dictum laid down by the honourable Apex Court in the case of Muhammad Tanveer v. The State (PLD 2017 S.C 733), the prosecution case against the applicant requires further enquiry under subsection (2) of Section 497, Cr.P.C. Consequently this application is hereby allowed. Resultantly interim bail already granted to the applicant on 12.7.2021 is hereby confirmed on the same terms and conditions. Applicant is directed to continue his appearance before the trial Court till final decision of main case. The trial Court to ensure early commencement as well as conclusion of the trial under intimation to this Court.

JUDGE

shabir