

**IN THE HIGH COURT OF SINDH, AT KARACHI**

**Cr. Bail Application No. 2348 of 2021**

Applicant : Rashid s/o Muhammad Ramzan, through  
Mr. Qadir Hussain Khan, advocate

Respondent : The State, through Mr. Faheem Hussain  
Panhwar, D.P.G.

Complainant : Ali Raza s/o Ghafran Ahmed, through  
Mr. Sardar Sher Afazl, advocate

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Date of hearing : 22.02.2022

Date of order : 25.03.2022

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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Rashid s/o Muhammad Ramzan seeks post-arrest bail in Crime No. 360/2021, registered at P.S. Jamshed Quarters, Karachi under section 324/ 34, P.P.C. His earlier application for the same relief bearing No. 4689/2021 was dismissed by the learned Additional Sessions Judge-IV, Karachi-East, vide order dated 21.09.2021.

2. As per FIR, the complainant sells fruit at Rehmania Masjid, Fatima Jinnah Colony, Jamshed Road, Karachi; on 15.06.2021 at 07:30 p.m., he and one Farooq were placing fruits when applicant, along with two unknown accused, came and assaulted on them with dagger causing multiple injuries to complainant on his neck, arm and armpit with intention to commit his murder, and on left arm of Farooq, for which, the accused were booked in the instant case. The motive behind the alleged incident as alleged in F.I.R. was annoyance of the applicant with complainant on account of occurring altercation between them one day before the alleged incident on taking intoxicant in the street by the applicant.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case by the

complainant due to enmity; that there is delay of two days in lodgment of the FIR, for that no plausible explanation has been furnished by the complainant; hence, deliberation and consultation for false implication of the applicant cannot be ruled out; that the alleged injuries are on non-vital part of the body of the complainant, which has been declared by the MLO as *Ghayr Jaifah Damiya and Ghayr Jaifah Badi'ah*, under section 337-F(i) & (ii), P.P.C. punishable with imprisonment up to three years as *ta'zir*, hence, the alleged offence does not fall within the prohibitory clause of section 497, Cr. P.C.; hence, it is a fit case for grant of bail to applicant.

4. Conversely, learned counsel for the complainant and D.P.G have opposed the grant of bail to the applicant on the grounds that he is nominated in the FIR by name with specific role; that the eye-witnesses in their 161, Cr.P.C statements have fully implicated the applicant with commission of alleged offence; that the ocular account is fully supported with the corroborative medical evidence; that the police recovered the crime weapon/dagger on the pointation of the applicant from his house, which was sent to ballistic expert and the report thereof is positive; that sufficient evidence is available with prosecution to connect the applicant with commission of alleged offence.

5. Heard the learned counsel for the applicant, complainant, D.P.G and perused the material available on record with their assistance.

6. It appears from the tentative assessment of the record available with the prosecution that the applicant is nominated in the FIR by name with specific role of causing multiple dagger injuries to complainant on his right temporal area of skull, right side neck, upper right scapural area, right arm and on space between thumb and index finger and on joint of middle finger. Annoyance of the applicant with the complainant is not a disputed fact. Both the parties reside in the same vicinity; hence, *prima facie* there is no element of mistaken identity

of the applicant. Besides the complainant/injured, there are two other eye-witnesses who have fully implicated the applicant with commission of alleged offence. During course of investigation, police recovered the dagger used in commission of alleged offence by the applicant. The alleged offence under section 337-F (ii), PPC although does not fall within prohibitory clause of section 497, Cr. P.C. but in such like cases the accused cannot claim bail as matter of right. Each case has to be dealt with on its own facts, circumstances and gravity of offence. As regard delay of two days in lodging of FIR, it has been stated in the F.I.R. that the complainant immediately went to hospital and after getting treatment, he lodged the FIR; hence, plausible explanation *prima facie* is available on record. Even otherwise, delay in FIR is not *ipso facto* a ground for the grant of bail.

7. From the tentative assessment of the evidence in hands of prosecution, I am of the view that *prima facie* sufficient evidence is available with the prosecution against the applicant to connect him with the commission of alleged offence. Hence, instant application is dismissed. The above observations are tentative in nature for the disposal of bail application and shall not influence the trial Court while deciding the case on merits.

JUDGE

*Athar Zai*