

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

Criminal Bail Application No.S-1159 of 2022.

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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For orders on office objection.

For hearing of main case.

28.11.2022.

Mr. Insaf Ali Qanunwala advocate for applicant.

Mr. Nasrullah A. Khaskheli advocate for complainant.

Mr. Abdul Waheed Bijarani Assistant Prosecutor General.

Applicant is present on ad-interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Applicant is a shop owner, selling paint/colors in Sanghar. Allegedly on some dispute over transaction complainant came at his shop where they exchanged hot words and started fighting with each other. It is alleged that applicant armed with an iron rod caused a blow to PW Majid Zaman on his head causing him an injury opined by Medico-Legal Officer as 337-A(ii) PPC, punishable upto five years. Apart from PW Majid Zaman two other PWs also got injured but they received only minor injuries falling u/s 337-A(i) and L(ii) PPC, bailable. This incident took place on 08.12.2021 however, FIR was registered on 12.10.2022 almost after ten months of incident.

Before that applicant had already registered an FIR No.231/2021 against complainant party for committing rioting after forming unlawful assembly in his shop and causing injuries to them. Bail application of applicant has been dismissed by learned trial Court only on the ground that he has been assigned specific role, without however considering delay in registration of FIR and effect of counter case already registered against complainant party in the light of ratio laid down in Sughra Bibi case by the Hon'ble Supreme Court. Citing these grounds learned counsel for applicant has pleaded for bail, opposed by learned counsel for complainant and learned APG.

Notwithstanding, as is clear FIR is delayed for about ten months and has been registered only as a counterblast to FIR

already registered by applicant against complainant. The incident occurred at the shop of applicant would show that prima facie he was not aggressor and in such a situation malafide on the part of complainant to register this case against him cannot be ruled out. More so, during investigation this case was disposed of under "C" Class by the I.O. which opinion however has not been agreed by learned Magistrate and he has taken cognizance of the offence. Nonetheless, it would show that I.O. has not to arrest the accused in this case. Accordingly, the bail application is allowed and ad-interim pre-arrest bail granted to him vide order dated 01.11.2022 is hereby confirmed on the same terms and conditions.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Irfan Ali