

**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR.**

Crl. Bail Application No. S- 372/2022.

Date of hearing	Order with signature of Judge
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For Hearing of Bail Application.

1. For orders on office objection at Flag 'A'.
2. For hearing of bail application.

O R D E R.
14.11.2022.

Mr. Achar Khan Gabol, Advocate for Applicant/
accused Qurban.

Syed Sardar Ali Shah, Additional P.G.

NAIMATULLAH PHULPOTO J., Applicant / accused Qurban son of Ghazi Mashori seeks post arrest bail in crime No.167/2022 registered at Police Station Abran District Naushehro Feroze, for offences under sections 324, 452, 337-F(i), 337-F(iii), 337-F(v), 337-H(ii), 148, 149, 504 PPC. Previously applicant Qurban applied for the same relief before learned Additional Sessions Judge-II Naushehro Feroze, however, bail application moved on behalf of applicant Qurban was rejected vide order dated 25.07.2022.

2. Brief facts of the prosecution case are that on 03.07.2022 Munawar Ali Mashori lodged FIR at 10.00 a.m alleging therein that applicant along with co-accused armed with deadly weapons committed house trespass to the house of complainant and applicant Qurban fired from his repeater upon complainant with intention to commit his murder which hit him on his left arm shoulder. Co-accused Ghulam Rasool fired upon complainant from his Kalashnikov which hit him at his left foot. Complainant went to Police Station and lodged FIR against accused. It was recorded on 09.07.2022 at 1700

hours for the offence under sections 324, 337-F(iii), 337-F(v), 337-H(ii), 452, 504, 148,149 PPC.

3. Learned advocate for applicant Qurban contended that there was six days delay in lodging of the FIR for which no plausible explanation has been furnished. It is further contended that fire arm injury attributed to applicant Qurban was on non-vital part of the body of complainant. Lastly, it is submitted that fire was not repeated and ingredients of Section 324 PPC can only be determined at trial. In support of the contentions reliance is placed upon the case of Umar Hayat v. The State and others (2008 SCMR 1621).

4. Syed Sardar Ali Shah Additional Prosecutor General argued that injury attributed to applicant was on non-vital part of the complainant; learned Addl. P.G conceded to the contentions raised by learned advocate for applicant. However, Additional Prosecutor General pointed out that there is progress in the trial and trial Court has recorded evidence of three P.Ws.

5. I have carefully heard learned counsel for the parties and perused the relevant record.

6. Taking up the first contention of Mr. Gabol, learned advocate for applicant that there was delay of six days in lodging of the FIR and it has created doubt in the case of prosecution. It may be observed that in the FIR it is mentioned that after incident complainant went to Police Station in injured condition and he was referred to civil hospital for his medical treatment. Complainant after medical treatment went to Police Station and lodged FIR on 09.07.2022 at 1700 hours. Apparently, delay in lodging of FIR has been explained. As regards to the second contention of learned advocate for applicant that injury attributed to

applicant on non-vital part of body of the complainant is concerned, applicant Qurban has fired upon the complainant which is supported by medical certificate, co-accused Ghulam Rasool had also fired upon complainant. Contention of learned advocate for applicant that complainant has sustained fire arm on his non-vital part of the body, ingredients of Section 324 PPC are not attracted. It is well settled law that Section 324 PPC draws no anatomical distinction between vital or non-vital parts of human body as held in the case of Sheqab Muhammad v. The State (2020 SCMR 1486).

7. There can be no escape from fact that applicant fired upon complainant and fire hit him on his left arm shoulder, supported by medical certificate. Prima facie, there appear reasonable grounds for believing that applicant Qurban Mashori has committed the alleged offence which fell within prohibitory clause of section 497 Cr.P.C. At bail stage, only tentative assessment of material is to be made and deeper appreciation of evidence is not permissible.

8. For the above stated reasons, application for post arrest bail is without merit and same is dismissed. Additional P.G has pointed out that evidence of three P.Ws has already been recorded, therefore, trial Court is directed to decide the case expeditiously.

9. Needless to mention here that observations made hereinabove are tentative in nature and trial Court shall not be influenced while deciding the case on merits.

10. The aforesaid bail application stands disposed of in the above terms.

J U D G E

