

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S- 1104 of 2022

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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02.01.2023.

Mr. Parvez Tarique Tagar, Advocate holds brief for Mr. Ayaz Hussain Tunio, Advocate for applicant.

Ms. Rameshan Oad, A.P.G for State.

Mr. Ali Najaf Memon, Advocate for complainant.

ORDER

Applicant is present on interim pre-arrest bail; however, his counsel as intimated by Mr. Parvez Tarique Tagar, Advocate is on general adjournment upto 08.01.2023. Counsel for complainant submits that after grant of ad-interim pre-arrest bail by this Court, accused has moved transfer application before the Court of Sessions which was declined and again he has moved another application before the said Court which is still pending adjudication. Due to that reason the trial has been hanged up and has not proceeded because of the conduct of accused as well his counsel.

2. Through instant bail application, applicant Abdul Hafeez seeks his admission on pre-arrest bail in Crime No.01 of 2022 registered at P.S Saeedpur under Sections 324, 337-H(ii), 148, 149, 114, 504 PPC.

3. Learned A.P.G submits that after sustaining injury at the hands of accused, the injured has been paralyzed therefore, in these circumstances extra ordinary relief cannot be granted.

4. Perusal of record reveals that after grant of ad-interim pre-arrest bail by this Court on 20.10.2022, the counsel for applicant had never appeared and have sought adjournment on one or other pretext. Such practice on the part of accused as well his counsel would show the applicant has misused the concession extended to him. Moreover, the injury allegedly sustained by injured is grievous in nature and the offence with which applicant stands charged does fall under the

prohibitory clause of Section 497 Cr.P.C. This is pre-arrest bail application and the applicant has to show malafide on the part of prosecution as well complainant or the injured; however no such material has been brought on record through which it could be deduced that applicant has falsely been implicated in this crime. The basic ingredients for grant of pre-arrest bail, as has been enshrined by Honourable Supreme Court of Pakistan in case of Rana Muhammad Arshad v. Muhammad Rafique and another (PLD 2009 Supreme Court 427) are lacking in this case.

5. In view of above peculiar circumstances of the case extra ordinary relief cannot be granted frequently more particularly when the applicant has failed to show malafide on the part of prosecution or the complainant. Hence this bail application merits no consideration. Consequently, instant bail application is hereby dismissed and the interim pre-arrest bail already granted to applicant on 20.10.2022 is hereby recalled. Since the case has been challaned and accused himself is responsible for not proceeding with trial hence applicant is taken into custody and remanded to Central Prison, Hyderabad with direction to the jail authorities to produce him before the trial Court as and when summoned by it. The trial Court is also directed to expedite the trial and after examination of material witnesses conclude it within four (04) months time under intimation to this Court. In case prosecution or the complainant may fail to procure its witnesses before the trial Court and the trial may not conclude within stipulated period, the applicant shall be at liberty to file fresh bail application before the trial Court on such ground which shall be decided upon its own merits as well according to law.

JUDGE

Tufail