

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S- 1265 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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08.12.2022.

M/s Ashar Majeed Khokhar and Fayaz Ali Talpur,
Advocates for applicant alongwith applicant (on bail).

Ms. Sana Memon, A.P.G for State.

ORDER

Muhammad Saleem Jessar, J.- At the very outset learned counsel for applicant submits that all the Sections applied under FIR are bailable except Section 506/2 which is yet to be established by prosecution after recording of its evidence. He therefore, submits that case against applicant requires further inquiry hence prays for confirmation of bail.

2. Learned A.P.G appearing for State opposes the bail application on the ground that applicant had deterred the government official while he was performing his lawful duties. She; however, could not controvert the fact that Section 353 PPC is bailable.

3. Mr. Bhooro Bheel, Advocate by filing his Vakalatnama on behalf of complainant also opposes the bail application on the ground that applicant has encroached upon the government property and when was restrained by the officials he made assault by issuing threats.

4. Heard. Record perused.

5. Admittedly, all the Sections applied under the FIR are bailable except Section 506/2 PPC. It is settled law that bail in bailable offence is the right of accused and not grace or concession. Reliance can be placed upon the case of Tarique Bashir and 5 others v. The State (PLD 1995 Supreme Court 34). As far as Section 506/2 PPC is concerned, it is yet to be established by prosecution after recording its evidence and then is to be determined by trial Court. The case is being tried by the Court Judicial Magistrate where after recording of the evidence if the

prosecution may succeed in proving its charge against him even then the punishment of more than 03 years cannot be visualized. In the light of dictum laid down by Honourable Supreme Court in the case of Muhammad Tanveer v. The State and another (PLD 2017 Supreme Court 733), the case against applicant requires further enquiry. In the circumstances and in view of above factual position, the case against applicant requires further inquiry as envisaged under sub-section (2) to Section 497 Cr.P.C. Accordingly, instant bail application is hereby allowed and the interim pre-arrest bail already granted to applicant on 22.11.2022 is hereby confirmed on same terms and conditions. However, applicant is directed to continue his appearance before the trial Court, without fail.

JUDGE

Tufail