

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-1001 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of main case.

11.11.2022.

Mr. Ghulamullah Chang, Advocate for applicant.
Mr. Muhammad Hassan Chandio, Advocate for complainant.
Ms. Sana Memon, Assistant P.G.

ORDER

Muhammad Saleem Jessar, J. - Through this application, applicant Chibhar S/o Baig Muhammad seeks his admission on post arrest bail in Crime No.51 of 2022, registered at Police Station Doulatpur for offence under Sections 452, 504, 506/2, 337-F(v) PPC. After registration of the case investigation was completed and challan of the case has been filed which is now pending for trial before the Court of Ist Civil Judge & Judicial Magistrate, Daulatpur. The applicant was arrested by the Police on 03.07.2022 and then he filed post arrest bail application before the trial Court on 07.07.2022 which was turned down by order dated 07.07.2022; therefore, he filed Bail Application No.1045 of 2022 before the Court of Sessions which was assigned to IInd Additional Sessions Judge, Shaheed Benazirabad, who after hearing the parties declined the prayer so made by the applicant vide order dated 23.07.2022; hence, this bail application.

2. Since the facts of prosecution case are already mentioned in F.I.R as well as impugned order passed by learned IInd Additional Sessions Judge, Shaheed Benazirabad; therefore, there is no need to reproduce the same in order to save precious time of the Court.

3. Learned Counsel for applicant submits that allegation against the applicant is that he allegedly was intending to cause iron bar blow to complainant but it was intercepted by injured Mst. Geenal @ Geeni, the wife of Moula Bux, which landed on her little finger while rest of the accused allegedly caused Danda blows to complainant. The injury allegedly sustained by Mst. Geenal @ Geeni has been declared by Woman Medico Legal Officer (WMLO) as 337-F(v) PPC which carries maximum punishment upto five years and does not exceed the limits of prohibitory clause of Section 497

Cr.P.C. The incident as per FIR had occurred on 19.06.2022 and report thereof was lodged on 01.07.2022 with delay of about 12 days though the distance between place of incident is only four kilometers away from police station; and such delay has not been explained by the prosecution. As per learned Counsel for the applicant, the case has been proceeded; however, has not been concluded. The case is being tried by learned Magistrate, where after recording evidence if prosecution may succeed to prove the charge against the accused, even then punishment of more than three years cannot be visualized.

4. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court in the case of **MUHAMMAD TANVEER v. The STATE & another (PLD 2017 Supreme Court 733)**, the case against applicant requires further inquiry within the meaning of sub-section (2) of Section 497 Cr.P.C. Accordingly, instant bail application is hereby allowed. Applicant shall be released on bail, subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and P.R Bond in the like amount to the satisfaction of learned trial Court.

5. It is pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE

Shahid