

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-1192 of 2022

DATE **ORDER WITH SIGNATURE OF JUDGE(S)**

For hearing of main case.

21.11.2022.

Mr. Muhammad Irfan Rajput, Advocate for applicant alongwith applicant (on bail)

Ms. Sana Memon, Assistant P.G.

ORDER

Muhammad Saleem Jessar, J. - The complainant in spite of issuance of notice to him is not in attendance.

2. Through this bail application, applicant Syed Muhammad Hussain S/o Syed Shafqat Hussain seeks his admission on pre-arrest bail in Crime No.167 of 2022 registered at P.S Tando Adam City under Sections 337-F(vi), 504, 34 PPC. Prior to filing of this application, the applicant filed A.B.A No.867 of 2022 before the Court of Sessions at Tando Adam, where after hearing the parties, his request for anticipatory bail was turned down.

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

4. Learned Counsel for the applicant submits that case has been challaned which is now pending for trial before the Court of Ist Civil Judge & Judicial Magistrate, Tando Adam (Re: The State v. Syed Muhammad Hussain Shah), where the case against him is fixed for hearing on 22.11.2022. Learned Counsel further submits that injury allegedly attributed to applicant is on non vital part of the body of injured; besides said injury as per medical evidence has been declared to be punishable under Section 337-F(vi) PPC; hence, does not exceed the limits of prohibitory clause of Section 497 Cr.P.C. He; therefore, submits that after considering such legal aspects of the case, the application in hand may be allowed.

5. Learned Assistant P.G Sindh, in view of above legal position, has recorded her no objection.

6. Heard and perused the record.

7. Per F.I.R the incident is said to have taken place on 17.08.2022, whereas it was lodged on 01.10.2022 after delay of about 01 month and 13 days, though the distance between Police Station and place of incident is only one kilometer and no plausible explanation has been furnished for such an inordinate delay. The delay in criminal cases has always been deprecated by the superior Courts and has been held to be fatal for the prosecution. Per contents of F.I.R the applicant allegedly caused iron rod blow to complainant which hit him on his left hand when he was rescued by PWs Riaz Ahmed and Mumtaz Ali. The injury allegedly sustained by injured on his left hand has been declared by the Medico Legal Officer as 337-F(vi) PPC which carries maximum punishment upto 07 years and does not exceed the limits of prohibitory clause of Section 497 Cr.P.C; besides the injury allegedly sustained by injured has also not been opined by Medico Legal Officer to be detrimental to his life

8. 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. The interim pre-arrest bail already granted to the applicant in terms of order dated 07.11.2022 is confirmed on same terms and conditions.

9. 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