

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-713 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objections.
2. For hearing of main case.

12.11.2021.

Mr. Sajjad Ali, Advocate for applicant.

Mr. Muhammad Imran Arain, Advocate for complainant
alongwith complainant and injured.

Mr. Shahzado Saleem Nahiyoon, Additional P.G.

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MUHAMMAD IQBAL KALHORO, J.- Complainant claims to be Manger, Mid City Guest House situated at Autobhan Road, Hyderabad. On 31.07.2021 at 07:00 hours, applicant alongwith his accomplices came in the same guest house and tried to book a room but was refused by the complainant on the excuse of SOPs in place on account of Covid-19. He and his friends lost tamper and applicant, who was having a pistol, made straight fire on the complainant but did not hit him. He repeated the fire which allegedly hit Muhammad Adnan, a friend of the complainant, on the lower part of his right leg when he tried to save the complainant.

2. Applicant is not present and his Counsel submits that he has suffered from dengue fever. He has further contended that applicant is innocent; there is delay of 11 hours in registration of FIR; injured was examined by the Doctor at 07:00 a.m. which is the time of incident as shown in FIR; the injury sustained by the injured is on non-vital part of the victim; the offence does not fall within the prohibitory clause of Section 497 Cr.P.C and it is yet to be determined as to whether Section 324 PPC would attract in the facts of the present case or not. He has relied upon the cases of UMAR HAYAT v. The STATE and others (2008 SCMR 1621) and MUHAMMAD TANVEER v. The STATE and another (PLD 2017 Supreme Court 733).

3. On the other hand, learned Additional Prosecutor General and learned Counsel for the complainant have opposed bail to the applicant, stating that he is nominated with specific role of firing two times, which prima facie attracts provisions of Section 324 PPC. The narration of FIR is supported by

medical evidence. It may be stated that at the stage of pre-arrest bail only tentative assessment of the material and malafide on the part of the complainant is to be seen alongwith merits of the case. It appears that parties are known to each other and applicant is specifically nominated by the complainant to have fired at him repeatedly. Resultantly, his friend namely Muhammad Adnan sustained fire arm injury on his leg. The medical certificate supports such narration of the incident. The concession of pre-arrest bail is an extraordinary relief which is extendable only to those accused who are falsely implicated in the case which is evident from the record. Here the facts and circumstances of this case as discussed above do not point out to availability of any such situation. The role assigned to the applicant prima facie connects him with the offence and therefore he is not entitled to the concession of pre-arrest bail. Accordingly, this bail application is dismissed and ad-interim pre-arrest bail already granted to the applicant vide order dated 25.08.2021 is hereby recalled.

4. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE

Shahid