

**THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-1038 of 2022.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.

For hearing of main case.

14.10.2022.

Mr. Haji Khan Hingorjo advocate for applicant.

Ms. Sana Memon, Assistant Prosecutor General, Sindh.

Mr. Qambar Ali Jamali Advocate for complainant.

Applicant is present on ad-interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Allegedly, there is bad-blood between the parties over grazing of cattle. On the day of incident viz. 23.08.2022 at 1200 hours applicant armed with a hatchet alongwith other accused armed with lathies accosted complainant party at Village Tar Qasim Waro Taluka Khipro. No sooner they came than applicant Dilber after abusing the complainant caused hatchet blow to PW Sanwan on his head causing him an injury opined by Medico-Legal Office as falling u/s 337-A(iii), non-bailable, punishable for ten years, hence this FIR.

Learned defence counsel has argued that there is delay of one month in registration of FIR although final medical certificate was issued on next day of incident. This case was registered on an application moved by complainant u/s 22-A/B CrPC in which he has given a different story i.e. commission of theft on the part of accused, whereas in the FIR he has described that incident had taken place over grazing of cattle; as such the case requires further inquiry and applicant is entitled to bail. His arguments have been rebutted by learned counsel for complainant and APG, who has stated that there is no delay in FIR because on the very first day injured under police docket was referred to medical examination and since the police were not registering FIR complainant had to move an application for registration of FIR. And that there is no difference in version in application for FIR, or FIR itself.

I have considered submissions of the parties and perused material available on record. Applicant has been assigned specific role of causing hatchet injury on the head of PW Sanwan which is on vital part of his body. It is non-bailable and punishable for 10 years, falling within the prohibitory clause of Section 497(i) CrPC. The arguments raised in defence require detailed inquiry which while deciding an application for bail cannot be undertaken. The bail applications are decided on the basis of prima facie evidence and in this case there is sufficient evidence to connect the applicant with the offence. Therefore he is not entitled to extraordinary concession u/s 498 Cr.P.C. Accordingly, the bail application is dismissed and ad-interim pre-arrest bail granted to him vide order dated 04.10.2022 is hereby recalled.

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

JUDGE