

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 174 of 2022

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

**8<sup>th</sup> April, 2022**

Syed Zainuddin, Advocate a/w applicant.  
Mr. Altaf Hussain, Advocate for complainant.  
Mr. Talib Ali Memon, APG.

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Omar Sial, J: Saeed Kamal Shah has sought pre-arrest bail in crime number 6 of 2022 registered under sections 452, 504 and 506 P.P.C. at the Aziz Bhatti police station in Karachi. Earlier, his application seeking bail was dismissed by the learned Sessions Judge, Karachi East on 10.01.2022.

2. Facts of the case are that Mohammad Sheban, belonging to the transgender community, lodged the aforementioned F.I.R. on 03.01.2022 recording therein that on 28-12-2021 the applicant forced his way into his house and beat him.

3. I have heard the learned counsel for the applicant as well as the learned A.P.G and the learned counsel for the complainant. The learned counsel for the applicant has taken a blanket cover of innocence and false case coupled with the fact that the F.I.R. was registered after a delay of 5 days as grounds for the grant of bail. The learned APG has opposed the grant of bail primarily on the ground that the applicant has repeatedly been committing the same offence.

4. It appears from the arguments of the learned APG that this is not the first time the same complainant has made the same complaint to the police against the same applicant. Previously, two F.I.Rs were registered against the applicant (being F.I.R. No. 699 of 2021 and 284 of 2021). The learned trial court has noted in the impugned order, which was also confirmed by the learned APG that, the applicant was granted pre-arrest bail in F.I.R. No. 284 of 2021 on the undertaking that he will not bother the complainant or go close to her. He however, upon a tentative assessment, violated that undertaking and committed the same offence again. There appears to be video footage with the prosecution prima facie

depicting the applicant kicking the door of the complainant and using abusive language. Such conduct of the applicant not only could merit cancellation of his bail in the case arising out of F.I.R. No. 284 of 2021 but also take away any leniency or concession shown to him in this case solely on the ground that the offence complained of falls within the non-prohibitory clause of section 497 Cr.P.C. (while offences under section 504 and 506 P.P.C. are bailable, the one under section 452 is non-bailable and carries a potential sentence of seven years). The applicant's repeated conduct, in my view, falls within the category of exceptions as envisaged in the case of Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) and thus disentitles him to the concession of bail.

5. Yet another aspect to consider is the presence of malafide as this is an application for grant of pre-arrest bail. I have repeatedly asked the learned counsel to satisfy me on this account but he was unable to offer any explanation as to why the complainant would repeatedly make the same complaint against the applicant. The applicant's bail application is liable to be dismissed on this account too.

6. The bail application stands dismissed however the learned trial court shall use its best endeavors to decide the case expeditiously and preferably within four months.

JUDGE