

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 462 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

11-05-2023

Mr. Qadir Bux Jarwar, Advocate for applicant.
Mr. Ashfaq Ahmed, Advocate a/w injured Abdul Rasheed.
Ms. Robina Qadir, Addl.P.G.

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Omar Sial, J: Usman Katiyar has sought post arrest bail in crime number 43 of 2022 registered under sections 337-A(i), 337-A(iii), 504, 506/2 and 34 P.P.C. at the Gharo police station in Thatta. Earlier, his application seeking bail was dismissed by the learned 2nd Additional Sessions Judge, Thatta on 25.01.2023.

2. A background to the case is that the aforementioned F.I.R. was registered on 25.03.2022 on the complaint of one Mohammad Khan. Khan reported that on 04.02.2022, he along with his brother Abdul Rasheed were returning home on their motorcycle when they were intercepted by the applicant, Nazar Mohammad (both with lathis) and Shahbaz Ali and Mehtab (with iron rods), who all beat Abdul Rasheed. The accused persons then left the premises hurling threats of dire consequences.

3. I have heard the learned counsel for the applicant and the learned Addl.P.G., who was assisted by the learned counsel for the complainant.

4. I find it rather odd that the complainant did not even receive a scratch in the scuffle that he claims ensued between the parties. How he has made the incident sound is as if 4 men with iron rods and lathis started to indiscriminately beat Abdul Rasheed. It would effectively mean that he did not even attempt to intervene to save his brother from harm. Whether or not the complainant himself was even present at the scene of the incident will need to be proved at trial.

5. Offences with which the applicant is charged are bailable except those under section 337-A(iii) and 506/2 P.P.C. Be that as it may, the punishments for both sentences fall within the non-prohibitory clause of section 497 Cr.P.C. Keeping the principles enunciated in the Tariq Bashir and 5 others vs The State (1995 PLD SC 34) in mind, I do not see any exceptional or extraordinary ground to decline the applicant bail. The injuries too, upon a tentative assessment do not appear to be severely serious. The delay in lodging of the F.I.R has not been explained. While the reasons and impact of this delay on the prosecution case will be determined at trial after the learned trial court has had an opportunity to review the evidence, at this stage, looking at the case holistically, throwing the net wide by the complainant cannot conclusively be ruled out.

6. Above are the reasons for the short order dated 02.05.2023.

JUDGE