

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

Cr. Bail Application No. S- 214 of 2023
[Muhammad Qasim versus The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant :	Through M/s Gh. Farooque and Farida Naz advocates
Complainant :	In person
The State :	Through Mr. Imran Ali Abbasi, Asst. P.G. along with I.O of the case
Date of hearing:	08.05.2023
Date of decision:	08.05.2023

ORDER

ADNAN-UL-KARIM MEMON, J- Applicant seeks pre-arrest bail in Crime No.10 of 2023 registered at P.S Husri/Seri district Hyderabad for offenses punishable under Sections 337-A(i), (ii) & L(ii), 504 and 34 PPC. His plea for the same relief has been turned down by the trial Court vide Order dated 01.03.2023.

2. The allegation against the applicant/accused, as per FIR, is that on 29.12.2022 at about 2000 hours he inflicted brick blows at the head of complainant's nephew Mehboob Ali whereas co-accused persons abused them and beaten with kicks and fists.

3. Learned counsel for applicant submits that the applicant is innocent and has falsely been implicated in this case; that there is inordinate delay of about 18 days in lodgment of FIR; that before registration of FIR accused party moved an application to DIG Hyderabad against complainant party, as such they being annoyed cooked up a story to falsely implicate the applicant party in the present FIR; that co-accused have been granted bail by the trial Court, and the case of applicant is at better footings as he was not even available at the alleged place of incident but was on his duty at Karachi as he is working in police department. He prayed that as the challan has been submitted and the applicant is no more required for further inquiry; therefore, the interim pre-arrest bail already granted to him may be confirmed.

4. Complainant present in person; however, his counsel is called absent; the Complainant vehemently opposed the bail and submitted that the applicant along with co-accused has caused serious injuries to his nephew, as such he is not entitled to the concession of bail; that as per CDR applicant was available at the place of incident. He prayed for dismissal of bail application and recall of interim bail.

5. Learned APG has submitted that the name of applicant/accused find place in the FIR with specific role of causing injury with bricks to victim; that the victim was referred to hospital for treatment, and as per medical report, the injury is punishable up to five years; that ocular evidence corroborates the medical evidence; that 161 Cr.P.C., statements of PWs are also supporting the version of Complainant; that sufficient material is available on record to connect the applicant with the commission of alleged offense. At the bail stage, only tentative assessment is to be made and deeper appreciation of evidence is not required; therefore, he prayed for dismissal of bail.

6. I have heard the arguments of the parties and perused the record with their assistance.

7. Tentative assessment of record reflects that the alleged incident took place on 29.12.2022 and it was reported on 17.01.2023 i.e. after 19 days. It is also an important aspect that while lodging FIR with an inordinate delay there must be some explanation which lacks in the present case. The Medical Certificate of injured has been challenged and no report has been furnished, in such circumstances it is not yet confirmed whether the injuries sustained by the victim were caused by the applicant and for that the trial court will be at liberty to see that aspect of the case.

8. In view of above, I have reached to a conclusion that the case of applicant would fall within the phase of further inquiry as laid down in clause (2) of Section 497 Cr.P.C. Now, it is also well settled that even at bail stage, the court may extend benefit of doubt to the accused/applicant on the aforesaid analogy; therefore, keeping in view the above facts and circumstances of the case, the bail granted to applicant vide order dated 07.03.2023 is confirmed in the same terms.

9. The observation made hereinabove shall not prejudice the case of either party at trial.

JUDGE