

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 641 of 2023

Date of hearing

Order with signature of Judge

For hearing of bail application

1. For order on office objection at Flag-A
2. For hearing of bail application

13.11.2023

Mr. Shamsuddin N. Kobhar, Advocate for applicant along with applicant.

Mr. Shabbir Ali Bozdar, Advocate for complainant.

Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – Complainant has alleged in FIR that applicant had reprimanded his mother Mst. Hakeeman over children's matter and was annoyed with them. On 12.08.2023 at about 2300 hours, he along with two other accused named in FIR committed trespass in his house and fired at his mother Mst. Hakeeman causing her an injury on thigh, opined by the Medico Legal Officer as 337-F(iii) PPC, punishable for three (03) years.

2. Learned Counsel in defence has argued that there are counter cases between the parties and FIR bearing Crime No.105 of 2023 at same police station was registered by wife of applicant against complainant party for causing firearm injury on his leg in the same incident; hence, the question as to which party is aggressor is yet to be determined. There is a delay of one day in registration of FIR and applicability of Section 324 PPC is yet to be determined, as there is only one injury on non-vital part of body of the victim. He has relied upon the case of Saeed Ullah and 2 others v. The State and another (2023 SCMR 1397).

3. His arguments have been countered by Counsel for the complainant and learned Additional Prosecutor General. They have relied upon the cases of Bilal Khan v. The State through P.G., Punjab and another (2020 SCMR 937), Ghulam Qadir v. The State (2022 SCMR 750) and an unreported order of this Court dated 04.09.2023 passed in the case of Saeed Ahmed and others v. The State (Cr. Bail App. No. S-443 of 2022).

4. I have considered submission of parties and perused material available on record including the case laws. Both the parties have registered the cases against each other, and in both the cases firearm injuries have been caused to the victims. It is stated that medical certificates in both the cases have been challenged before the Medical Board. Although the applicant is assigned role of causing a firearm injury to mother of the applicant, but, it is opined to be punishable for three (03) years only, falling U/S 337-F(iii) PPC. The applicability of Section 324 PPC in view of such facts and circumstances needs to be determined, as apparently, except one injury on a non-vital part of body of the victim, she has not received any other injury, nor it is alleged that applicant had tried to make a second fire upon the victim to take her life. Therefore, the case of further inquiry has been made out, and since there are counter cases between the parties, false implication in both the cases cannot be ruled out. The case laws, relied upon by learned Counsel for complainant, are distinguishable and not applicable in this case.

5. Accordingly, this application is **allowed** and ad-interim pre-arrest bail already granted to applicant, vide order dated 18.09.2023, is hereby **confirmed** on the same terms and conditions.

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

The bail application stands **disposed of** in the above terms.

Abdul Basit

J U D G E