

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail App. No. S – 884 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

15.01.2024

Mr. Nusrat Hussain J. Memon, Advocate for applicant, who has filed a statement along with certain documents.
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – It is alleged in FIR that on account of some previous ill-will, applicant along with twelve (12) other co-accused, out of whom 11 are nominated, stormed in the house of complainant, and at the instigation of co-accused Sikandar Ali, applicant fired at brother of complainant, namely Agha, hitting his hip. Whereas, other accused caused injuries to complainant and PWs Bashir Ahmed and Ayaz Ali, out of whom injured Agha and Bashir Ahmed were referred to hospital for treatment. PW Bashir Ahmed has reportedly received minor injuries, while injury received by Agha assigned to applicant has been opined as 337-F(iii) PPC, punishable only for three (03) years.

2. Learned defence Counsel submits that it was a free fight between the parties in which both parties had received injuries. Applicant's party had also filed an application for registration of FIR, but in view of ratio laid down in Sughran Bibi's case by the Supreme Court, the application was dismissed, and applicant party was directed to approach the Investigation Officer for recording its version of the incident, but the IO has failed to do so. He further submits that as the injury is minor one and punishable for only three (03) years and applicant had not repeated the same, hence, applicability of Section 324 PPC requires further enquiry.

3. Learned Additional Prosecutor General has opposed bail to the applicant.

4. Before registration of FIR, complainant party had got an NC of the incident registered at about 1800 hours on the same date viz. 05.07.202 at Police Station Adilpur, in which no specific role has been assigned to any of the accused. The injury received by the victim U/S 337-F(iii) PPC is punishable only for three (03) years. Further, it is apparent that although complainant party was at the mercy of applicant, but he did not repeat his fire, which will make applicability of Section 324 PPC over his act requiring further enquiry. The applicant is in jail since 07.07.2023 and no more required for further investigation. Complainant on the last date of hearing was present, but he has chosen to remain absent today. Filing of application by applicant party for registration of FIR against complainant party, which although was dismissed but the order contained advice to applicant party to approach the IO in this regard, shows *prima facie* that it was a free fight between the parties without any premeditation.

5. The case for bail to the applicant in such circumstances has been made out. Accordingly, this application is **allowed**, and applicant is **granted** post-arrest bail subject to furnishing a solvent surety in the sum of Rs.1,00,000/- (Rupees one lac) and PR bond of the same amount to the satisfaction of the trial Court.

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.

J U D G E

Abdul Basit