

ORDER-SHEET
**IN THE HIGH COURT OF SINDH CIRCUIT
COURT HYDERABAD**

Criminal Bail Application No.S-709 of 2023

21.08.2023

Raja Jawad Ali Sahar, advocate for applicant along with applicant, who is present on interim pre-arrest bail.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Mr. Anwer Ali Rajput, advocate for complainant.

ORDER

ZULFIQAR ALI SANGI, J:- This order will dispose of instant bail application filed on behalf of the applicant namely, Gul Hassan s/o Bhural Khan, seeking his pre-arrest bail, who is facing trial in Crime No.88/2023 of PS Market, registered under sections 419, 420, 336 PPC.

2. The learned counsel for the applicant has contended that the applicant is innocent and has been implicated in this case falsely; that the story set up by the complainant itself appears to be forged, manipulated and concocted one; that the FIR is delayed for about one year without any plausible explanation; that as per version of the complainant allegedly the applicant has damaged the eyesight of the victim but he did not make complaint against him when he came to know for such damage; that the complainant himself has taken different versions in respect of examination of the victim as in the FIR he says that he got examined the victim medically from Dr. Feroz Memon on the next day of the incident viz. on 14.07.2022; however, per provisional medical certificate, she was examined on 19.06.2023 and the final medical certificate has been issued on 21.07.2023; that issuance of provisional and final medical certificates after such long unexplained delay coupled with other factors establishes the case of prosecution for further inquiry.

He, therefore, prayed for confirmation of the interim pre-arrest bail already granted to the applicant.

3. On the other hand, learned Assistant P.G. as well as learned counsel for complainant have vehemently opposed the instant application. However, they have admitted the delay in lodgement of FIR as well as examination of victim.

4. Heard arguments and I have scrutinized the entire material available on the record.

5. It appears that allegation against the applicant namely Gul Hassan is that while he posing himself as Dr. Shakeel Hyder Soomro checked up the victim namely Rohma, who was stated to have lens available in her eye, but the applicant after using instruments in different ways for an hour, directed to come by tomorrow as still lens is available in the eye but the same could not be removed. On next day when the victim was checked by Dr. Feroz Memon, he stated that there is no lens in the eye but her eyesight has been effected. Thereafter, the complainant party approached the applicant who disclosed his name as Gul Hassan and could not reply for impersonation. Therefore, the applicant has been booked in the instant case. Though the learned counsel for the complainant has stated that the complainant has moved applications to the SSP Hyderabad against the applicant but learned A.P.G. Sindh after going the police/investigation file disclosed that the same are not part and parcel of investigation. Admittedly the incident occurred on 13.07.2022 but the FIR has been lodged on 17.06.2023 after delay of more than one year and *prima facie* no such plausible explanation has been furnished. Further, the victim was examined by Dr. Feroz Memon on very following day of the incident; however, the provisional medical certificate shows that she was examined on 19.06.2023 whereas final medical certificate has been issued on 21.07.2023. All these aforesaid facts make the instant case to be fit for further inquiry as envisaged under subsection 2 of section 497 Cr.P.C.

6. In view of the above, I am of the opinion that the applicant has succeeded to establish his case for confirmation of

interim pre-arrest bail already granted to him. Consequently, interim pre-arrest granted to the applicant vide order dated 12.07.2023 is hereby confirmed on the same terms and conditions.

7. The observations made hereinabove are tentative in nature and will not prejudice the case of either party.

JUDGE

Abdullah Channa/PS