

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail App. No. S – 203 of 2023

Date of hearing

Order with signature of Judge

For hearing of bail application

18.09.2023

Applicant is present in person.
Complainant is present person.
Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – Applicant and complainant are brothers inter se. Applicant is elder brother and between them, there is a dispute over the property left by their father. In the FIR, the complainant has alleged that applicant is not giving him share from the property and when he made complaints to *Nek Mards* of the area, he got annoyed. On 19.06.2022, when he with his family was present in the house, applicant along with other accused trespassed into his house and caused a *lathi* blow injury to his son namely Sadam on his nose, fracturing the same; hence, FIR.

2. Applicant's Counsel is absent. I have heard the applicant in person. He submits that he is innocent, and on account of enmity, complainant has got the FIR registered against him.

3. Learned DPG and complainant, who, from his appearance, seems to be extremely poor person, states that applicant is not giving him share from the property left by his deceased father, and since he is a poor, when he approached police for FIR, to report the matter, they refused, and only on an application before learned Sessions Judge, under Section 22-A & B, CrPC, the FIR was registered.

4. Learned DPG submits that the injury attributed to the applicant is supported by the medical certificate, which is

punishable for 10 years, defined under Section 337-A(iii) PPC, and falls under prohibitory clause 497(ii) CrPC.

5. I have heard the parties and perused material available on record. The medical certificate shows that on the very day, the injured was referred, through a police letter, to hospital for medical examination and report. The final medical certificate was issued on 22.06.2022, which is after 03 days of the incident. But the police did not act in accordance with law to register the FIR, although in the final medical certificate, a cognizable offence, was reported to it. Applicant is the elder brother of the complainant; therefore, there appears to be no element of *mala fide* on his part or ulterior motive to falsely implicate him in a case, which is punishable up to 10 years. The injury attributed by the complainant to the applicant is supported by medical evidence as well as statements under Section 161 CrPC.

6. In view of presence of reasonable grounds against applicant, he is not entitled to concession of pre-arrest bail, an extra ordinary relief, which is to be given to innocent persons who have been implicated falsely, to save them from arrest, in a non-bailable offence.

7. Accordingly, this bail application is **dismissed** and interim pre-arrest bail earlier granted to applicant by this Court, vide order dated 31.03.2023, is hereby recalled.

8. The observations, as above, are tentative in nature and not meant to affect merits of the case before the trial Court.

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

J U D G E