

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

Criminal Bail Application No.S-1383 of 2024

**DATE**

**ORDER WITH SIGNATURE OF JUDGE**

**20.01.2025**

Applicant is present on bail.

Mr. Altaf Sachal Awan, Advocate for applicant.

Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

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**O R D E R**

**AMJAD ALI SAHITO, J:-** Through this bail application, the applicant is seeking confirmation of his pre-arrest bail in Crime No.226 of 2024, for offence under sections 377-A (ii), 337-F(i), 337-L(ii), 504, 506/2 & 34 P.P.C, registered at P.S. Kazi Ahmed. Earlier bail plea of applicant was declined by the learned Additional Sessions Judge-II, Shaheed Benazir Abad vide impugned order dated 13.12.2024.

2. The facts of the case are already mentioned in the F.I.R and memo of bail application, hence need not to reproduce the same hereunder.

3. Per learned counsel, the applicant / accused is innocent but due to matrimonial dispute, he has been booked in this case with the allegation of causing iron rod blow to injured Mehboob Ali even otherwise the same is yet to be determined after recording evidence. The applicant present in Court states that incident took place at night hours and he was sleeping in his house as such was not present at place of occurrence. Lastly prayed for confirmation of bail.

4. Baby Hira, Advocate files Vakalatnama on behalf of complainant taken on record. She alongside learned APG vehemently opposed the confirmation of bail. The victim / injured Mehboob Ali present in Court and disclosed that after receiving injury at the hands of applicant / accused, he has lost his right eye.

5. Heard learned counsel for the respective parties and perused the record.

6. From perusal of record it reflects that the name of applicant / accused Zafar Ali has appeared in the FIR with specific role that he has caused iron rod blow to injured Mehboob Ali which hit him on upper part of his right eye resultantly he has lost his eye, as such, section 336 PPC is very much applicable in this case. The maximum punishment provided by law of aforesaid section is 10 years hence the offence in which the applicant is charged falls within the prohibitory clause of section 497 Cr.P.C. The injured also present in Court stated that in the incident he received iron rod blow injury at the hands of accused Zafar Ali, as such, he has lost his right eye. At bail stage only tentative assessment is to be made and nothing has been brought on record to show any ill-will or malafide on the part of the complainant which is requirement for grant of pre-arrest bail. In

this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7. In view of above discussions, the applicant/accused failed to make out good case for confirmation of his bail. Consequently, the bail application is **dismissed** and interim pre-arrest bail earlier granted to the applicant/accused vide order dated 24.12.2024 is hereby **re-called**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and same would not prejudice the case of either party at trial.

JUDGE

Muhammad Danish\*