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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No.S-538 of 2012.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection as Flag 'A'
2. For orders on M.A.No.2783/2014
3. For Hearing.

24.3.2014.


Mr. Ather Abbas Solangi, advocate for applicant along with applicant.

Mrs. Seema Imtiaz, A.P.G.

Applicant/accused Azeem S/o Abdul Rasheed by caste Solangi seeks pre arrest bail in Crime No.70/2012 registered at Police Station Radhan Station for offences punishable under section 337-A(ii), 337-A(i), F-(i), 147, 148, 149, 504, PPC.

Brief facts of the prosecution case as disclosed in the FIR are that on 10.9.2012, complainant Abdul Razak Solangi lodged his report alleging therein that he owns Brick-kiln. On the day of the incident, he along with his brothers Ayaz and Pathan and cousins Riaz, Imtiaz, Pervez and uncle, Rajib and Hakim left the house and proceeded to the Brick-kiln, when they reached in the common street it was 08:00 a.m, they saw accused persons Leemon alias Rashid, Gulzar armed with lathis, Wazir armed with hatchet, Azeem armed with hatchet, Talib armed with lathi, Azizullah, Zahid, Nisar and four unidentified persons were standing. Accused abused to the complainant and said that complainant had exchanged hot words over the quarrel of children and they would not be spared. Thereafter, it is alleged in the FIR that accused Leemon alias Rashid caused lathi blow to PW Ayaz at his head. Applicant/accused gave blunt side hatchet blow to PW Imtiaz which hit him at his head. Remaining accused caused injuries to the other P.Ws. The FIR of the incident was lodged under the aforementioned sections.

Bail before arrest was moved before the learned Sessions Judge, Dadu. Concession of pre arrest bail was extended to all the accused except the applicant Azeem, vide order dated 14.11.2012, thereafter, applicant Azeem has approached this Court.



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Mr. Ather Abbas Solangi, advocate for applicant/accused contended that this is a case of counter version. Nephew of the complainant regarding same incident had lodged the FIR bearing Crime No.73/2012 at the same Police Station. It is further argued that the injuries suffered by the applicant/accused have been suppressed by the complainant malafidely. It is also submitted that the alleged offence does not fall within the prohibitory clause of section 497(1), Cr.P.C. Case has already been challaned. Lastly it is submitted that medical evidence is contradictory to the ocular evidence with regard to the number of the injuries sustained by P.W Imtiaz. In support of his contention reliance has been placed upon the case reported as Shoaib Mehmood Butt versus Iftikhar-ul-Haq and 3 others 1996 SCMR 1845 and Syed Abdul Baqi Shah versus The State 1997 SCMR 32.

Learned State Counsel argued that the name of the applicant/accused did transpire in the FIR. Role has been assigned by the applicant in the commission of the offence. She has opposed the bail before arrest application of the applicant.

I am inclined to confirm the interim pre arrest bail already granted to the applicant/accused for the reasons that this is a case of counter version, yet it is to be determined which party is aggressor. Injuries suffered by the applicant/accused have been suppressed by the complainant. Co-accused had been granted pre arrest bail by the learned Sessions Judge. Apparently, medical evidence is contradictory to the ocular evidence. Applicant is no more required for investigation. Serious malafide on the part of the complainant has been alleged. The alleged offence does not fall within the prohibitory clause of section 497(1), Cr.P.C. In such circumstances, a case for grant of pre arrest bail to the applicant is made out. Resultantly interim pre arrest bail already granted to the applicant/accused is hereby confirmed on the same terms and conditions.

Before parting with this order, it is hereby clarified that the above observations are tentative in nature and meant only for the disposal of the matter in hand. These shall have no bearing at all on anybody's case at trial.

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Judge 24-2-2014