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ORDER SHEET

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO

Cr. Bail Application No.- 228 of 2022

Applicant(s): Noor Deen son of Dhani Bux by caste Bangulani, through Mr. Saeed Ahmed Bijarani, Advocate.

The Complainant: Through Mr. Ashfaque Hussain Abro, Advocate.

The State: Through Mr. Ali Anwar Kandhro, APG .

Date of hearing: 05.09.2022.



Date of order: 05.09.2022.

ORDER

Naimatullah Phulpoto-J. Applicant Noor Deen Bangulani seeks pre arrest bail in Crime No.20/2022 registered at Police Station B-Section Thull, for offences punishable under sections 337-F(v) 337-f(i), 504, 147, 148, 149 PPC. Previously, applicant/accused applied for the same relief before learned Sessions Judge, Jacobabad but the same was rejected by him vide order dated 23.04.2022.

Mr. Saeed Ahmed Bijarani, learned advocate for the applicant/accused contended that injury attributed to the applicant/accused Noor Deen is on non vital part of the body; that there is delay of two days in lodging of the FIR for which no plausible explanation is furnished; that applicant is aged about 70 years. It is further submitted that there was litigation between the parties prior to this incident; that applicant's side had already lodged FIR against the complainant at various police stations; that there is compromise between the parties and compromise application shall be submitted before the trial court on the next date of hearing. Lastly it is submitted that alleged offence does not fall within prohibitory clause of section 497 Cr.PC. In support of his contentions, reliance has been placed on the case of Nadir alias Nadir Ali v. The State (2018 P Cr. L J Note 225).

Mr. Ali Anwar Kandhro, Additional Prosecutor General assisted by Mr. Ashfaque Hussain Abro, advocate for the complainant in the view of submissions, recorded no objection for confirmation of bail.

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I have carefully heard learned counsel for the parties and perused the record.

I am inclined to grant pre arrest bail to the applicant/accused mainly for the reason that injury attributed to the applicant/accused is on not vital part of the body. The applicant/accused is aged about 70 years and there is previous litigation between the parties. Serious malafie on the part of complainant has been alleged. The copies of the previous litigation between the parties have been placed on record. There was also delay of two days in lodging the FIR for which no plausible explanation has been furnished. Co-accused have already been granted the concession of Pre-arrest bail by trial court. Admittedly alleged offence does not fall within prohibitory clause of section 497 Cr.PC. In such cases, grant of a bail is a rule and refusal is an exception. For hearing of the pre arrest bail application merits of the case are also to be touched. Rightly, reliance has been placed on an unreported judgment of Hon'ble Supreme Court in the case of Rana Muhammad Imran Nasrullah v. the State (Criminal Petition No: 358-L of 2022 dated 23.8.2022).

For the above stated reasons, case for grant of pre-arrest bail is made out. Interim pre arrest bail already granted to the applicant/accused vide order dated 28.4.2022, is hereby confirmed on same terms and conditions.

S.Ashfaq

JUDGE 579