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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No.S-216 of 2018

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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27.08.2018.

1. For orders on office objections.
2. For hearing of Bail Application.


Mr. Mujahid Ali Jatoy, advocate for the applicant, along with the applicant.

Mr. Khadim Hussain Khooharo, Addl. P.G.

Mr. Mumtaz Ali Panhwar, advocate for complainant.

Through instant criminal bail application, applicant/accused Safdar Ali alias Ramz Ali son of Hidayatullah Khuhawar seeks pre-arrest bail in Crime No.49 of 2014, registered at Police Station Hyderi, Larkana, under Sections 337-F(v), 147, 148, 149, 353, 337-H(ii), PPC. Earlier the application of the applicant for grant of pre-arrest bail bearing Crl. Bail Application No.616 of 2018 was heard and dismissed by the learned VI-Additional Sessions Judge, Larkana, vide order dated 07.5.2018. The applicant was admitted to ad-interim pre-arrest bail by this Court, vide order dated 15.5.2018, now he seeks confirmation of the same.

As per the FIR, allegation against the present applicant is that on 13.4.2018 he and co-accused, namely, Aijaz Ali, Barkat, Shoukat and Latif, duly armed with deadly weapons, went at the bridge of Satoon Mail Ghar, Deh Beero Chandio and gave lathies, hatchet and butt blows to complainant Wazir Ali Khuhawar, who was performing his duty as "Tandel" at Satoon Mail Regulator, over the matter of cutting the branches of trees standing at the Satoon Mail Regulator. It is also alleged that the present applicant gave blunt side hatchet blow to the complainant and caused fracture in his little finger.



Learned Counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case due to enmity, as the applicant himself lodged an FIR bearing Crime No.42/2018 at Police Station Taluka, Lakrana, under sections 337-F(i), 337-A(ii), 147, 148, 149, PPC, in which the present complainant is nominated as an accused, with the specific role of causing repeater butt blows to the applicant and the present FIR has been lodged by the complainant after 12 days of lodging of the FIR by the applicant/accused as a counter-blast; that the alleged offence does not fall within the prohibitory clause of section 497, Cr.P.C; that the complainant has already been granted bail in the aforementioned counter-case, therefore, the applicant is also entitled for the concession of pre-arrest bail.

On the other hand, learned Counsel for the complainant while opposing the grant of pre-arrest bail to the applicant, has maintained that the applicant is nominated in the FIR with specific role. He, however, has admitted that the applicant has lodged the FIR against the complainant earlier and it was thereafter the complainant lodged the present FIR against the applicant.

Learned Addl. P.G has, however, recorded his no objection for the confirmation of interim pre-arrest bail granted to the applicant by this Court, on the grounds that apparently it is a counter version of the same incident, wherein the applicant has also sustained injuries on his head and face.

Heard the learned Counsel for the parties and perused the material available on record.



It appears that the alleged incident is shown to have occasioned on 13.4.2018, at 9.30 a.m., while the present FIR was lodged by the complainant on 26.4.2018, however, the applicant lodged his FIR bearing Crime No.42/2018 on 14.4.2018, at 1900 hours, which is earlier to the present FIR, lodged by the complainant. It is also an admitted fact that the complainant has been admitted to bail in the crime/FIR lodged by the applicant; therefore, it is yet to be determined as to who was aggressor and who was aggressed upon. The alleged offence being, *inter alia*, punishable for five years does not fall within the prohibitory clause of Section 497, Cr.P.C. The police has already submitted the challan in both the cases. There is no complaint of misusing of concession of ad-interim pre-arrest bail by the applicant, hence the interim pre-arrest bail granted to the applicant vide order dated 15.5.2018 is hereby confirmed on the same terms and conditions.


JUDGE

For Direction:

- 1) For orders on MA No: 228/18 (41A)
- 2) For orders on MA No: 228/18 (561-A)

— Accountant Report as flag 'B'

18-01-2019
~~Order~~

None present.
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1. Urgency granted.
2. Notice to ADG for 01-2-2019.

