

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 42 of 2013.

Date of hearing	Order with signature of Judge
26.07.2013.	


FOR HEARING.

Mr. Abdul Rasheed Abro, Advocate for applicant.
Mr. Abdul Sattar Janveri, Advocate for complainant.
Mr. Riaz Hussain Khoso, State Counsel.

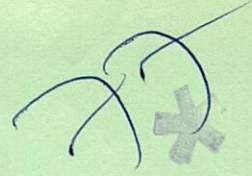
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**Salahuddin Panhwar, J:** Through instant bail application, applicant Punhal alias Hafeezullah Nindwani seeks post-arrest bail in Crime No.20/2012, of Police Station RD-44, District Jacobabad, under Sections 337-A (i), 337-F (i), 354-A, 147, 148, 149 P.P.C.

2. Precisely, relevant facts are that complainant lodged F.I.R, wherein he alleged that on 12.10.2012, applicant alongwith co-accused outraged modesty of his wife Mst. Saima Bibi, by stripping her cloths. Thereafter on her cries he and his cousin Zuber Ahmed, uncle Arslah Kundrani rushed there, while other accused persons armed with lathis also reached and applicant caused lathi blow to his uncle Arslah on his head and rest of accused persons caused lathi blows to other witnesses; they went to hospital for treatment, thereafter lodged above F.I.R. It is further revealed that applicant has appended F.I.R No.21/2012 lodged at same Police station, wherein complainant Mst. Khanzadi has contended that complainant party caused lathi blows to the applicant party and applicant also received injuries in the same incident.

3. Learned counsel for the applicant, *inter-alia*, contends that except Section 354-A P.P.C, all other Sections are bailable; enmity on agricultural land is admitted by the complainant; applicant has not outraged modesty of Mst. Saima Bibi, but complainant has deliberately managed this story, because of landed dispute; and there are counter cases between the parties; in counter case all accused are on bail, granted by trial Court, therefore, applicant is also entitled for bail. In support of his contention he has relied upon 2012 MLD 524. 





4. Conversely, learned State Counsel assisted by learned counsel for complainant while refuting the submissions of counsel for applicant argued that name of applicant transpires in the F.I.R with specific role and instant case provides imprisonment for life, thus falls within the prohibitory clause of Section 497 Cr.P.C.

5. Heard learned counsel and perused the record.

6. After careful consideration of submission raised by respective counsel and scanning the record, it is not disputed that enmity is admitted by the complainant, so also it is case of counter version and injury received by applicant is also not disputed. Applicant was arrested on 12.10.2012 in injured condition from Taluka Hospital, Thull, and in counter version recorded through F.I.R, it is manifest that place and time of occurrence is same. This Court as well as Hon'ble Supreme Court has always taken lenient view when admittedly case between parties is of sudden flare up. With regard to the outrage of modesty of the woman as alleged by the complainant it is suffice to say that due to existence of enmity between the parties on landed property and in same incident both the parties have received injuries and the manner as stated with regard to outrage of modesty of woman, in given circumstances, prima, facie lacks the basic ingredient, thus same requires further probe. Reference can be made to the case of Sanaullah v. The State (1994 MLD 1302). Besides, co-accused Abdul Rasheed, Gulab and Shah Nawaz have been granted bail by the trial Court; accused is behind the bar; case is pending for adjudication of his guilt.

7. Keeping in view the given circumstances the applicant has succeeded to bring his case within the purview of Subsection (2) of Section 497 Cr.P.C., thus he is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (One hundred thousands) and P.R bond in the like amount to the satisfaction of trial Court. The observations made hereinabove are tentative in nature and thus will not prejudice the case of either party.

  
Judge