

Form No:HCJD/C-121

ORDER SHEET

LAHORE HIGH COURT, LAHORE

JUDICIAL DEPARTMENT

Case No. CrI. Misc. No.11382-B of 2023

Muhammad Hamza **Versus** The State etc.

S.No. of order/ Proceedings	Date of order/ Proceedings	Order with signature of Judge and that of Parties of counsel, where necessary.
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13.03.2023	Mr. Faisal Ghafoor Khokhar, Advocate for the petitioner. Ms. Ummul Baneen, Deputy District Public Prosecutor along with Younas, ASI with record. Nemo for the complainant.
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Muhammad Hamza, petitioner seeks post arrest bail in case FIR No.656 dated 26.11.2022 registered for offence under Section 336 PPC at Police Station Urban Area District Sargodha.

2. Arguments heard. Record perused.
3. The FIR in hand was got registered by the complainant with the delay of one month and thirteen days regarding which no plausible explanation has been given therein. Per contents of crime report, when the petitioner was working on his grinder machine, a metal splinter hit into complainant’s right eye that according to medical evidence available on file has caused “*Itlaf-e-salahiyyat-i-udw*”. Duration of injury given in the medico legal examination certificate by the Medical Officer on 19.11.2022 is about two months. Meaning thereby, as per findings of the Medical Officer occurrence probably took place during the mid of September, 2022 while per crime report, it happened on 13.10.2022. Moreover, it prima facie, seems an occurrence accidental in nature and if it is so, Section 336 PPC would not be applicable.

For convenience, Section 336 PPC is reproduced as under: -

“336. Punishment for Itlaf-i-salahiyyat-i-udw. Whoever, by doing any act with the intention of causing hurt to any person, or with the knowledge that he is likely to cause hurt to any person, causes itlaf-i-salahiyyat-i-udw of any person, shall, in consultation with the authorized medical officer, be punished with qisas and if the qisas is not executable, keeping in view the principles of equality in accordance with the injunction of Islam, the offender shall be liable to arsh and may also be punished with imprisonment of either description for a term which may extend to ten years as ta'zir.”

A bare perusal of the provision manifests that intention to cause hurt or knowledge that he is likely to cause hurt, is a necessary requirement to constitute offence punishable under Section 336 PPC which prima facie, is missing in this case. In consideration of the facts mentioned above, I am of the opinion that the culpability of the petitioner for an offence punishable under Section 336 PPC yet requires determination by the learned trial court which makes this case one of further inquiry into petitioner's guilt. The petitioner is behind the bars since his arrest on 29.12.2022 though he is no more required for further investigation purposes. Hence, this petition is allowed and the petitioner is admitted to post arrest bail subject to his furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of the learned trial court.

Signed on 16.03.2023

(Syed Shahbaz Ali Rizvi)
Judge

APPROVED FOR REPORTING:

Judge