

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Misc. No. 630/B/2019

Amjad Hussain

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(04)	13.11.2019	Mr. Adil Aziz Qazi, Advocate alongwith petitioner. Mr. Gulfam Latif Butt, Advocate for respondent No.2. Ms. Saima Naqvi, State Counsel. Sajid Iqbal, ASI.

MOHSIN AKHTAR KAYANI J. Through this criminal miscellaneous, petitioner has prayed for pre-arrest bail in case FIR No. 225, dated 24.06.2019, registered U/S 337-A(i), 337-A(ii)/506(ii), PPC, P.S Sihala, Islamabad.

2. Brief facts referred in instant FIR lodged on the complaint of Malik Sajid Hussain /respondent No.2 are that on 22.06.2019 at about 07:30 a.m. he was excavating land alongwith two labourers for the purpose of construction of his house and at about 01:15 p.m, Muqet Husain son Amjad Hussain visited the place and after altercation extended life threats with his .30 bore pistol and called his father to come alongwith his brother Shameer, when his father Amjad Hussain/present petitioner and brother Shameer reached at the spot, Amjad Hussain's younger son Shameer Hussain caught hold of the complainant and started beating him with *Danda*, whereas Amjad Hussain gave *Churri* blow, which

landed above his right eye causing severe injury, whereafter they fled away from the scene.

3. Learned counsel for the petitioner contends that petitioner has falsely been implicated in this case as the complainant tried to block the public thoroughfare by raising construction on the CDA property and when they have been asked to restrain themselves from raising such construction, hence instant FIR has been registered. He further contends that injury alleged in the FIR falls within the Section 337-A(i) and it was not bone deep, therefore, the offence with which the petitioner has been charged is bailable.

4. Conversely, learned counsel for the respondent No.2 contends that petitioner has been nominated in the instant case with specific role for causing injury and as such he is not entitled for any concession of bail as no malafide has been argued by the petitioner's side.

5. Arguments heard, record perused.

6. From the perusal of record, it reveals that the petitioner has been nominated with specific role of causing *Churri* blow on the right side of the eye to the complainant/ Malik Sajid Hussain and FIR has promptly been lodged and the role of the petitioner is clear and specific.

7. Tentative assessment of record reveals that petitioner is involved in the instant case and the witnesses corroborates the medical version referred in the MLR and as such there is no apparent malafide on record. Even otherwise, the petitioner's

side has only argued that the offence with which the petitioner has been charged does not fall within Section 337-A(ii) "Shajjah-i-mudihah" rather it falls within Section 337-A(i) "Shajjah-i-Khafifah". However, at this stage, such question could not be determined as it amounts to a deeper appreciation, which is not permissible at pre-arrest bail stage. The role which has been assigned to the petitioner reflects that he has caused the injury and confirming pre-arrest bail at this stage will further trivialize the matter and even the Investigation Officer will be handicapped from further investigation, who has yet to recover the weapon of offence.

8. In view of above, instant criminal miscellaneous is devoid of merits and same is hereby **dismissed** and the ad-interim pre-arrest bail granted to Amjad Hussain/present petitioner by this Court vide order dated 10.10.2019 is hereby **re-called**.

9. Before parting with the order, it has been observed from the order sheets of this Court dated 10.10.2019, 21.10.2019 and 07.11.2019, whereby the titled of the case was inadvertently written as "Nouman Ayub Qureshi Vs. The State etc instead of Amjad Hussain Vs. The State etc., therefore, the same may be read as **Amjad Hussain Vs. The State etc.**

(MOHSIN AKHTAR KAYANI)
JUDGE

RAMZAN