

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.S-111 of 2021.
Criminal Bail Application No.S-520 of 2021.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection
For hearing of main case

25.10.2021.

Mr. Aziz Ahmed Laghari advocate for the applicants.

Mr. Noor-ul-Haq Qureshi and Mr. Saad Salman Ghani advocates for the complainant.

Mr. Shahzado Saleem Nahiyoon, Additional Prosecutor General.
Applicants in Criminal Bail Application No.S-111 of 2021 are present on interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORO, J:- These are two bail applications. The First has been filed by applicants Zeeshan Latif and Abdul Lateef for pre-arrest bail, whereas the other has been filed by Adnan and Behzad for post arrest bail in same crime and offences committed on 29.12.2020 and reported on 30.12.2020.

2. It is alleged that all the applicants duly armed with Repeater, Desi Pistol, hatchet and lathi attacked complainant party comprising five members. Applicants Adnan and Behzad caused fire arm injuries to PW Muhammad Qasim and PW Muhammad Tariq which are duly recorded in the medical certificates. The firearm injury on the person of PW Muhammad Tariq ultimately led to amputation of his left leg below knee.

3. Applicants Zeeshan Latif and Abdul Lateef statedly caused hatchet and lathi blows to complainant Muhammad Arif and PW Muhammad Ayoob. PW Muhammad Ayoob, injured by applicant Abdul Lateef, and complainant Muhammad Arif, injured by applicant Zeeshan Latif, as per Medico-Legal Certificate, have sustained minor injuries, bailable under Sections 337-A(i) and 337-L(ii) PPC.

4. Learned defence counsel has argued that applicants are innocent and have falsely been implicated in this case; that incident occurred at night but

source of light is missing; the seat of injuries i.e., below knee and foot belies narration of FIR that that straight fires were made by the accused. There is delay of 25 hours in registration of FIR which has not been explained; that the case requires further inquiry and the applicants are entitled to grant of bail. He has relied upon the cases reported as PLD 1995 SC 34, PLD 2004 SC 477, 2008 SCMR 1621, 2014 P.Cr.L.J 261, 2004 YLR 1 and 2014 SCMR 1669.

5. On the other hand, learned counsel for complainant and learned Additional Prosecutor General have opposed bail to the applicants and submitted that applicants have been assigned specific role in the FIR; that source of light as Bulb has been identified in the FIR; that all the applicants being part of an unlawful assembly have participated in the incident conjointly with a common intention; that a leg of PW has been amputated as a result of firearm injury and PW Muhammad Qasim has also sustained such injuries; that oral account is supported by medical record. In support of their contentions they have relied upon case law reported as 2005 SCMR 1496, 2020 SCMR 2089, 2006 SCMR 407, 2012 MLD 586, 2017 MLD 829, 2009 SCMR 725, PLD 2014 SC 241, 2007 P.Cr.L.J. 1056, PLD 1985 SC 402 and 2014 MLD 1454.

6. I have considered submissions of the parties and perused the material available on record alongwith the case law. Applicants Adnan and Behzad seeking post arrest bail, allegedly armed with firearm weapons, have been assigned specific role of causing firearm injuries to PW Muhammad Qasim and PW Muhammad Tariq. One firearm injury has led to amputation of below knee leg of PW Muhammad Tariq. Memo of place of incident shows presence of blood stained earth and empties, which are shown to have been duly recovered from there. The injuries account is supported by Medico-Legal Certificates, which prima facie connects the applicants with the allegations leveled against them. The source of light to identify the applicants has been given as a Bulb in the FIR. Delay in lodgment thereof has also been explained by the complainant that initially the injured were taken to hospital. In view of such facts and circumstances, I do not find these applicants entitled to concession of bail.

7. Notwithstanding, the case against applicant Zeeshan Latif and Abdul Lateef appears to be of further inquiry. Although they are alleged to be a part of an unlawful assembly but the role assigned to them is of injuring PW Muhammad Ayoob and complainant Muhammad Arif, who as per

Medico-Legal Certificate have sustained injuries which are bailable. They have not been assigned any injury to either PW Muhammad Qasim or PW Tariq to attract against them an imputation of an attempt to take lives of complainant party. Therefore, prima facie, applicability of section 324 PPC in their case is yet to be determined. Further injuries attributed to them are such that any inference against them of having shared a common intention with the main accused would not be without an element of incredulity. Reportedly, the trial has commenced, therefore, it would be in the interest of justice to order the trial Court to proceed with the matter expeditiously instead of taking off concession of bail from them.

8. Accordingly, Criminal Bail Application No.S-111 of 2021 is allowed and ad-interim pre-arrest bail granted to the applicants vide order 08.02.2021 is hereby confirmed on the same terms and conditions. Whereas, Criminal Bail Application No.S-520 of 2021 is dismissed. The trial Court is hereby directed to examine material witnesses within three months and after that period the applicants would be at liberty to move a fresh bail application, which however, if filed, shall be decided on its own merits.

9. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Irfan Ali