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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Crl. Bail Appln. No S-311 of 2021.

Date

Order with signature of Hon'ble Judge

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

Mr. Asif Hussain Chandio, advocate for the applicant, along with applicant

Mr. Aitbar Ali Bullo, Deputy Prosecutor General

Date of Hearing : 23.08.2021

Date of decision : 23.08.2021.

ORDER

Omar Sial, J.- Mehboob Ali alias Muhabat Ali has sought pre-arrest bail in crime number 20 of 2021 registered under sections 337-A(i), 337-F(i), 147, 148, 114 and 149, P.P.C. at the Arija police station in Larkana. Earlier, his application seeking bail was dismissed by the learned 4th Additional Sessions Judge in Larkana vide his order dated 6-7-2021.

2. The aforementioned F.I.R. was registered on 20-6-2021 by Sabir Hussain Shah narrating an incident that had occurred on 18-6-2021. He recorded that he has an old dispute over a plot of land with one Hakim Ali Chandio and that on 18-6-2021 while he was standing close to his home with his brother Ajeeb Shah and nephew Hajan Shah, 5 people appeared on the scene. Hakim Ali and Mukhtiar Ali were armed with repeaters, Deedar Ali was armed with a pistol, Waheed Ali held a cudgel whereas the applicant Mehboob Ali held a hatchet. Hakim Ali instigated the others upon which the applicant Mehboob Ali hit Hajan Shah with his hatchet on the head; Waheed Ali hit the complainant with his cudgel on his head whereas Mukhtiar Ali and Deedar Ali hit the complainant and Hajan Shah on various parts of their body with the butt of their pistols. The accused then left the scene.

3. I have heard the learned counsel for the applicant as well as the learned DPG and have perused the record with their assistance. The

complainant did not effect an appearance as he is an absconder in F.I.R.

number 21 of 2021 registered at the same police station by the accused party ostensibly for the same incident

4. The offences with which the applicant is charged are either bailable or fall within the non-prohibitory clause of section 497 Cr.P.C. (as section 337-A(ii) P.P.C. was also added to the charge at a later stage). Investigation is complete and no extraordinary or exceptional circumstances have been argued which would merit denial of bail to the applicant. Reference can be made to the case of **Tariq Bashir and 5 others versus The State** (PLD 1995 SC 34).

5. This is admittedly a case of counter versions with F.I.R. No.21 of 2021 having been registered by the complainant party for the same incident. While the learned trial judge has observed the same in his bail dismissal order it appears that he was not assisted properly and the Honorable Supreme Court's orders for grant of bail in **Shoaib Mehmood Butt v. Iftikhar ul Haq** (1996 SCMR 1845), **Abdul Hameed v. Zahid Hussain alias Papu Chaman Patiwala** (2011 SCMR 606) and **Saqib v. State** (2020 SCMR 677) were not brought to his attention.

6. Due to a self-admitted enmity with the accused party and the fact that it seems the complainant has absconded himself in the same incident, *malafide* on his part to file this case cannot conclusively be ruled out at this preliminary stage.

7. In view of the above observations, the interim pre-arrest bail granted to the applicant on 09.07.2021 is confirmed on the same terms and conditions.


JUDGE 23/8/21