

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st. CrI. Bail Appln. No.S-197 of 2022.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For hearing of bail application.

13.06.2022

Mr. Idrees Ahmed Mangi, advocate for the applicants.

Mr. Mazher Ali Bhutto, advocate for the complainant.

Mr. Aitbar Ali Bullo, D.P.G.

ORDER.

This is post arrest bail application filed by the applicants Ghulam Bashir son of Muhammad Yaqoob and Ali Nawaz son of Ghulam Muhammad in respect of F.I.R No.12/2022 registered at Police Station Badeh Larkana, for offence punishable under sections 324, 337-F(i), 504, 34, PPC, after rejection of bail from the Court of III-Additional Sessions Judge, Larkana.

2. Facts of the prosecution case as enunciated in the F.I.R are that on 13.03.2022, complainant Saddam Hussain Mirani, lodged the F.I.R alleging therein that the dispute between the complainant party and accused Ghulam Shabir Mirani, is going on over the matter of land. It is further alleged that, on the same day when the complainant along with his brother Afzal and friend Javed Ali was returning back from the land after its look-after and reached at the main street of Nau Goth near Primary School, they saw from western side accused Ghulam Shabir having hatchet in his hand, 2.Allah Rakhio alias Rakhial armed with repeater and one unidentified person having bludgeon in his hand appeared there. Out of them, accused Ghulam Bashir, while abusing disclosed that they have restrained the complainant party from coming'

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at the disputed land/plot despite of that they were coming, therefore, they would not be spared and would be done to death. Saying so, accused Allah Rakhio alias Rakhial pointed his repeater upon the complainant party while accused Ghulam Bashir Mirani with intention to commit murder gave sharp side hatchet to Afzal at his left cheek, who raising cry fell down on the ground and the unidentified accused also gave bludgeon blow to the Afzal at wrist of his right arm. It is also alleged that the complainant party raised cries to which the inhabitants of the village came running and challenging, seeing them, the accused persons along with hatchet, repeater and bludgeon went away towards their houses. Then, the complainant with the help of witnesses brought his injured brother Afzal at Police Station from where obtained letter for treatment, proceeded from there went to RHC Badeh leaving his brother there under treatment, he again appeared at Police Station and lodged the F.I.R to the above effect.

3. Learned counsel for the applicants contends that the false case is made out on account of enmity as the complainant has already registered another F.I.R and the dispute is present between the parties in respect of land. It is further contended that applicant No.2, Ali Nawaz has been implicated by way of further statement. Delay of two hours is present, whereas, distance from the place of incident and the Police Station is only half kilometer for which no plausible explanation has been furnished. It is further contended that the final medical certificate required in the matter takes the injury out of non prohibitory element of Section 497, Cr.P.C and that the witnesses are related to each other in the matter. Learned D.P.G concedes to the element of nature of injuries being not coming within the prohibitory element; however, he states that the present applicant have been fully implicated in the matter by way of statement. Learned counsel for the complainant however, states that against applicant No.1 Ghulam Bashir, earlier F.I.R was lodged

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wherein though he was acquitted, his conduct is visible by the present allegations made in the F.I.R which are fully supported by the medical certificate and corroborating statements. It is further contended that the nature of injuries and the acts of present applicants, the applicant No.1 do not require the concession of bail irrespective non prohibitory element.

4. Having heard learned counsel and gone through the record.

5. Apparently, the case against applicant No.2, Ali Nawaz on account of the existing enmity and brought up by further statement and not the F.I.R can be treated of that further enquiry and as such this bail application is accepted for said Ali Nawaz against a surety of Rs.50,000/- with P.R bond in the like amount to the satisfaction of learned trial Court. However, as to the applicant No.1, Ghulam Bashir, apparently overt act is alleged before also existence of which is not in a denial state although he is said to not have been convicted therein. The present act alleged against him is duly supported by medical evidence and the record present before this Court. In the present circumstances, his case irrespective to the non prohibitory element is found not entertaining to the concession of bail. However, learned counsels present agree that direction may be considered for proceeding of the trial before the concerned Court. In the circumstances though the bail application of applicant No.2 is entertained only. Let the learned trial Court to make a sincere attempt for concluding of trial within a period of two months. With the above directions, bail application stands disposed of.


Judge