

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

3rd Crl. Bail Appln. No.S-66 of 2017.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For orders on C.M.A.No.529/2017.
3. For orders on C.M.A.No.530/2017.
4. For Hearing.

16.02.2017

Mr. Faiz Muhammad Larik, advocate for the applicant along with applicant.

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1. Office objection to be complied with within one week.
2. Granted.
3. Granted subject to all just exceptions.
4. Applicant Muhammad Ali Khoso seeks ad-interim bail in Crime No.21 of 2014 registered at Police Station Garhi Hassan/Abdullah Sarki RD-52, District Jacobabad for offence punishable under section 447, 337-A(i), 337-V(a), 506/2, 337-H(2), 148, 149, PPC.

It is, *inter alia*, contended by the learned counsel for the applicant that the applicant has falsely been implicated by the complainant in this case. Learned counsel further contends that present applicant along with co-accused filed an application for grant of pre arrest bail bearing Crl. Bail Appln. No.S-300 of 2014 before this Court and after grant of interim pre arrest bail they were attending this Court regularly, however on 14.07.2015, present applicant and co-accused failed to appear, therefore, pre-arrest bail application was dismissed for non-prosecution. Learned counsel further contends that later-on second time fresh interim pre-arrest bail application was filed on behalf of the applicant and co-accused before this Court bearing Crl. Bail Appln. No.S-350 of 2015 and again they were admitted to interim pre arrest bail on 16.7.2015. On 11.12.2015, when the matter was

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fixed for confirmation or otherwise, interim pre-arrest bail of co-accused was confirmed, while pre-arrest bail application of the present applicant, was called absent, therefore his application was dismissed and surety papers were sent to trial Court for taking action against surety in accordance with law. Now this third pre-arrest bail application on behalf of present applicant has been moved before this Court.

Since the co-accused, whose case is altogether identical to that of present applicant, have already been granted pre-arrest bail by this Court vide order dated 11.12.2015. Therefore, without touching the merits or demerits of the case, applicant is admitted to ad-interim pre arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- and P.R bond in the like amount to the satisfaction of Additional Registrar of this Court. Let notice be issued to complainant and learned D.P.G. To come up for confirmation or otherwise on 03.03.2017. The applicant is directed to join trial and submit such proof before this Court on the next date of hearing.

Judge

Muhammed Rehal S/o Muhammed
Sole surety for applicant namely Muhammed
Rehal S/o Pandhi Khan

in the sum of Rs. 50,000/- each Total

Rs: 50,000/- 21-02-2017

Vide Surety Bond No.

48/2017

D. O. Accountant

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S-66 of 2017.

Date of hearing	Order with signature of Judge
03.03.2017.	

1. For orders on office objections.
2. For hearing.

Mr. Faiz Muhammad Larik, Advocate for applicant.
Mr. Sardar Ali Rizvi, A.P.G.

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Through instant application, applicant Muhammad Ali Khoso seeks pre arrest bail in Crime No.21/2014, registered with P.S Garhi Hassan/Abdullah Sarki/RD-52 of District Jacobabad, for offences punishable under Sections 447, 337-A (i), 337-V (a), 506 (2), 337-H (2), 148 & 149 P.P.C.

The facts of prosecution case are on 20.06.2014, complainant Nek Muhammad Khoso appeared at Police station and lodged report in the following wording:-

*"It is compliant that, I am residing at the above address and own agricultural land in Deh Khuda Bux. That on 07.6.2014, I, my son Zahoor Ahmed and nephew Abdul Malik Khoso son of Fazal Muhammad Khoso were busy in working in agricultural land, bearing survey No.225, 227, Block No.113, ad-measuring 16-Jireb, while the tractor was ploughing the land, in the meantime at about 8.30 a.m. accused Muhammad Ali son of Pandhi Khan, 2. Muhammad Yousif son of Pandhi Khan, 3. Muhammad Raheem son of Ghulamuddin, 4. Muhammad Ameen son of Jari alias Muhammad Shareef, 5. Muhammad Akbar son of Muhammad Ramzan by caste Khosa, resident of Deh Khuda Bux Buriro Thull, all were having T.T pistols in their hands; on coming while giving hukal they aimed their weapons and extended threats of murder and disclosed that the land belongs to them and they are occupying the same, and accused Muhammad Ali hold me, while accused Muhammad Akbar detached hairs of my beard and caused me kicks and fists blows; then all the accused in order to create harassment made aerial firing, and we due to fear remained silent, and the accused person by pushing thrown us out of our agricultural land*

and extended threats of murder that in case if you again came to land you will be done to death. Then, I proceeded to concerned Police station, where my F.I.R was not registered, then I moved such application to Hon'ble Court, wherefrom I have been given order for registration of the case, and today I have come and report the matter that above named accused persons duly armed with weapons with their common intention came and have occupied over my above mentioned agricultural land and have extended threats of murder by making aerial firing and I have apprehension of my life at the hands of accused persons. I am complainant, investigation may be made."

Perusal of record shows that applicant alongwith co-accused Muhammad Yousif, Muhammad Saleem, Muhammad Ameen and Muhammad Akbar approached learned Sessions Judge, Jacobabad, who at-first admitted them to interim pre-arrest bail and ultimately learned Sessions Judge dismissed their bail application and re-called interim pre arrest bail. As such, the applicant and aforesaid co-accused moved an application before this Court vide Crl. Bail Appln. No. S- 300/2014 and they were admitted to interim pre arrest bail, however on 14.7.2015 all the accused persons failed to attend this Court, therefore, their bail application was dismissed for non-prosecution.

Then, the applicant and same co-accused filed second bail application before this Hon'ble Court vide Crl. Bail Appln. No. S- 350/2015 and again applicant alongwith co-accused named-above were admitted to interim pre arrest bail on 16.7.2015 and accused were attending this Hon'ble Court; however on 11.12.2015 interim pre arrest bail of other co-accused was confirmed, in respect of present applicant Muhammad Ali, it was directed by this Court that since he has misused the concession of interim pre arrest bail, therefore, it was directed to send surety papers to trial Court for taking action against his surety in accordance with law. Hence, this third bail application on behalf of the applicant.

Learned counsel mainly contended that, applicant and co-accused, namely, Muhammad Yousif, Muhammad Saleem, Muhammad

Ameen and Muhammad Akbar were admitted to interim pre arrest bail by this Court vide Order dated 16.7.2015, however their interim pre arrest bail was confirmed on 11.12.2015 and since applicant could not attend this Hon'ble Court, therefore, his bail was not confirmed; therefore, he has filed this bail application. He further contends that, since applicant had left for performing Umrah, therefore, he could not attend this Court, therefore, his bail was not confirmed. Learned counsel submits that the surety of the applicant has been penalized and he has deposited imposed amount before the learned trial Court. Learned counsel lastly contended that case of present applicant is on same footings to that of co-accused, whose interim bail has been confirmed by this Court, therefore, on the basis of rule of consistency present applicant also deserves same concession and treatment.

Learned A.P.G. in view of above factual position concedes to confirmation of pre arrest bail already granted to the applicant.

Since, co-accused Muhammad Yousif, Muhammad Saleem, Muhammad Ameen and Muhammad Akbar have already been granted pre arrest bail by this Court vide Order dated 11.12.2015 and case of present applicant is identical to that of co-accused, therefore, on the basis of rule of consistency the applicant is also entitled to same concession. Accordingly, instant bail application stands allowed and interim pre-arrest bail granting order dated 16.02.2017 is hereby confirmed on same terms and conditions.



JUDGE

Ansari/\*