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ORDER-SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Bail Apnl. No. S- 242 of 2017.

| Date of hearing | Order with signature of Judge           |
|-----------------|---|
| 10.11.2017.     | <u>For hearing of bail application.</u> |

Mr. Ali Nawaz Ghangro, Advocate for applicants.

Mr. Ali Nawaz Junejo, Advocate for complainant.

Mrs. Rubina Dhamrah, ADPP.

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Applicants Tariq, Ayaz and Talib are present (on interim pre arrest bail) alongwith their counsel.

The bail application moved by the applicants before the trial Court has been declined by means of Order dated 07.06.2017 and the case has also been challaned by the police, which is now pending trial before the Court of Civil Judge and Judicial Magistrate-II, Ratodero.

Per F.I.R, the case of prosecution is that, on 28.05.2017 at about 5.30 p.m. complainant Aijaz Ali and his wife Mst. Shabana were assaulted by the applicants and co-accused being armed with hatchets and lathis thereby causing them multiple injuries. The motive of the alleged incident as set-out in the F.I.R is dispute between the parties over landed property.

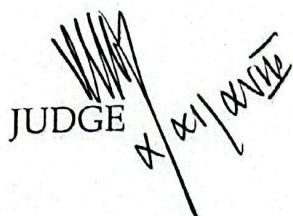
Learned counsel for applicants submits that main injury to PW Aijaz Ali is assigned to co-accused Sajid and injury allegedly sustained by Aijaz Ali being Shajjah Hashimah was challenged by the applicants before Special Medical Board constituted by Director General, Health Services Sindh Hyderabad, where said injured/PW was appeared and after his examination the injury allegedly sustained by him opined by medico-legal officer has been found "incorrect" and therefore upon the basis of findings of Special Medical Board the co-accused Sajid Ali has been granted post arrest bail by the learned trial Court vide his order dated 30.08.2017; certified copy of the order is available with the file. The role

assigned to applicants Tariq and Talib is mere their presence; while applicant Ayaz has been assigned causing backside hatchet blows to injured/ PW Mst. Shabana and such injuries have been declared as Shajjah Khafifah and Jurh Ghayr Jaifah Damighah, which carries three years punishment, therefore, the case against them requires further enquiry.

Learned ADPP has extended her no objection. Learned Advocate for complainant states that applicants have been assigned specific role of causing injuries to the PWs, therefore, they do not deserve concession of bail. He therefore supports the order passed by the Court below and prays for dismissal of instant bail application.

I have heard the counsel for the parties and have gone through the material made available before me.

Apparently, the grievous injury allegedly sustained by PW Aijaz Ali is attributed to co-accused Sajid and that injury has been found "incorrect" by the Special Medical Board, therefore, upon the basis of findings of Special Medical Board the co-accused Sajid Ali has been granted bail by the trial Court. The injuries allegedly attributed to applicant Ayaz are not falling within prohibitory clause of Section 497 Cr.P.C, while applicants Tarique and Talib have not been assigned any injury to anybody, therefore, case requires further enquiry. In view of case of Tariq Bashir v. The State (PLD 1995 S.C 34), the instant application is allowed. Consequently, interim pre -arrest bail already granted to applicants vide Order dated 14.6.2017 is hereby confirmed on same terms and conditions.

  
JUDGE

Ansari/\*