

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

Crl. Bail Appln. No 5-535 of 2017

| Date of hearing | Order with signature of Judge |
|-----------------|-------------------------------|
| 05.12.2017 | |

1. For orders on office objections.
2. For orders on M.A. No. 4118/2017.
3. For hearing of bail application.

Mr. Muhammad Ali Pirzada, Advocate for applicants

Mr. Ahmed Bux Abro, Advocate for complainant.

Mr. Aijaz Mustafa Samtio, DDPP.

Mr. Ali Nawaz Ghangro, Advocate files vakalatnama on behalf of complainant, which is taken on record. Statement dated 05.12.2017 filed by Advocate for applicants alongwith translation of F.I.R and other document is taken on record.

Through instant application, applicants Abdul Hameed Mugheri and Abdul Razzak Mugheri seek pre-arrest bail in Crime No. 189/2017, of P.S City Kamber, registered under Sections 324, 337-A (i), 337-F (i), 114, 148, 149 P.P.C.

Earlier bail application filed on behalf of the applicants and co-accused bearing No.1177/2016 was entertained by learned Sessions Judge, Kamber-Shahdadkot @ Kamber, whereby they were granted interim pre-arrest bail. Subsequently, it was assigned to learned 2nd Additional Sessions Judge, Kamber, who after hearing the parties confirmed bail of co-accused and declined pre arrest bail to applicants.

The case of prosecution as unfolded in F.I.R is that, they are on strange relations and on the fateful day, number of people spreading over seven persons have made assault upon the complainant party and on instigation of applicant Abdul Hameed, the applicant Abdul Razzak is alleged to have fired straightly upon PW Manzoor Ahmed, which landed



on his right leg. It is further alleged that rest of the accused also caused blows to the complainant party.

Learned counsel for the applicant mainly contended that the parties are already on strange relations and this fact is admitted by the complainant in his F.I.R, therefore, according to him, this is sufficient ground for grant of pre arrest bail to the applicants; that the alleged injury sustained by PW Manzoor Ahmed has been declared by the medico-legal officer as Jurh Ghayr Jaifah Hashimah falling under Section 337-F (v) P.P.C, which carries maximum punishment upto five years. Learned counsel further submits that on 16.09.2017, much prior to filing of instant F.I.R the applicant Abdul Hameed filed F.I.R No.181/2017 at P.S Kamber City, under Section 324 P.P.C against present complainant and eyewitnesses Muhammad Bux. He therefore submits that false implication of applicants and their arrest for ulterior motives and malafide intention is proved.

Conversely, M/S Ali Nawaz Ghangro and Ahmed Bux Abro learned counsel for complainant submit that specific role of causing firearm injury is assigned to applicant Abdul Razzak on instigation of applicant Abdul Hameed, therefore, both of them do not deserve concession of pre arrest bail.

Learned DDPP while adopting arguments advanced by counsel for complainant also opposed grant of bail.

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

Admittedly, the alleged injury sustained by PW Manzoor Ahmed is on his leg, which is the non-vital part of the body and that injury has been declared by the medico-legal officer, to be Jurh Ghayr Jaifah Hashimah, falling under Section 337-F (v) P.P.C, which carries maximum punishment upto five years and does not fall within prohibitory clause of Section 497 Cr.P.C. The parties are already inimical towards each other,

as is manifest from contents of the F.I.R, therefore, ingredients of pre arrest bail as defined by the Hon'ble Supreme Court in case of *Murad Khan v. Fazal-e-Subhan and another* (PLD 1983 Supreme Court 82) maintained in case of *Muhammad Arshad v. The State* (PLD 2009 S.C 427), are attracted in this case. Moreover, the applicants have joined the trial and are attending the trial Court regularly.

As for as injury allegedly sustained by injured PW Manzoor is concerned, same being on his non vital part of body, was not fatal or detrimental to his life, vide case of *Master DUR MUHAMMAD and others versus The STATE* (1994 P.Cr.L.J 1769).

Looking to the strange relations and existing murderous enmity between the parties, possibility of their false implication with malafide intention cannot be ruled out. The basic ingredients for grant of pre-arrest bail and condition prescribed by the Hon'ble Supreme Court of Pakistan in cases of Murad Khan and Muhammad Arshad (supra) are satisfied.

In view of above circumstances and the dictum laid down in the cases (supra) and case of *Tariq Bashir and 5 others v. The State* (PLD 1995 S.C 34), the instant bail application is allowed. Consequently, interim pre arrest bail already granted to applicants vide Order dated 03.11.2017 is hereby confirmed on same terms and conditions.


JUDGE 12-12

Ansari/*

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
1st Crl. Bail Application No. S-535 of 2017

| DATE | ORDER WITH SIGNATURE OF JUDGE |
|------|-------------------------------|
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Disposed off matter

1. For orders on M.A No.4311/2017 (U/A)
2. For orders on M.A No.4118 /2017 (561/A)

19.12.2017

Mr. Muhammad Ali A. Pirzado, Advocate for the applicant/surety.
 Mr. Aijaz Mustafa Samtio, DDPP for the State.

1. Granted.

2. Through instant application, applicant/surety Roshan Ali Bughio seeks substitution of surety documents. Learned counsel submits that pursuant to order dated 03.11.2017 the surety has furnished/deposited Defence Savings Certificate of Rs.100,000/- before the Additional Registrar of this Court. He further submits that due to personal reasons, the surety wants to submit solvency certificate of the same amount in lieu of Defence Savings Certificate. Learned DDPP for the State has recorded no objection.

Accordingly, instant application is allowed. Office is directed to substitute the surety papers and after acceptance thereof as per rules, return the Defence Savings Certificate to the surety after proper verification and identification.

Judge

Abid H. Qazi/**

*Above order
compiled on: 21/12/17*

*Qazi
21.12.17
Accountant*

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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st Cr. Bail A. No. S-535 of 2017.

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For orders on M.A.No.3237/2020.

30.07.2020

Mr. Muhammad Afzal Jagirani, advocate holds brief for Mr. Ali Nawaz Ghangro, advocate for the applicant/surety.

Mr. Aitbar Ali Bullo, D.P.G for the State.

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Applicant/surety Ghulam Mustafa, had stood surety for accused Abdul Hameed and Abdul Razak, who were granted interim bail before arrest by this Court vide order dated 03.11.2017 in FIR No.189/2017 registered at Police Station City Kamber for offences under section 324, 337-A(i), F(i), 114, 148, 149, PPC. Later on interim pre-arrest bail granted to said applicants/accused was confirmed by this Court vide order dated 05.12.2017.

Learned counsel holding brief for counsel for the applicant/surety mainly contends that the aforesaid applicants/accused, after grant of ad-interim bail joined the trial, and after full-fledged trial, the trial Court acquitted the accused vide judgment dated 04.07.2020. (Copy of the said judgment is available in Court file). Since the purpose of surety has been served, he, prays that Solvency Certificate NO.152/2017 dated.03.11.2017, issued by Muktiarkar Taluka Larkana furnished by applicant/surety may be returned.

Learned D.P.G endorsing the contention raised by the applicant/surety has recorded his no objection, stating that Solvency Certificate furnished as surety is no more required.

In view of the above, the Solvency Certificate/surety papers having been furnished as surety, by the applicant is ordered to be returned to the applicant/surety on proper verification, attestation and identification. The application stands disposed of.

Judge

