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**ORDER SHEET**

**E HIGH COURT OF SINDH BENCH AT SUKKUR**

Cr.B.A.No. 1143 of 2011.

For Hearing.

11.10.2012.      Mr.Manzoor Ahmed M. Junejo advocate for the  
                         applicant.  
                         Mr.Zulifquar Ali Jatoi DPG.

AHMED ALI SHAIKH, J- The present applicant alongwith  
other co-accused has been indicted in Crime No.386/2011 of  
Police Station, Ghotki registered for an offence under  
Section 324, 353, 398, 401, PPC R/w Section 7-AT Act, 1997.

2.    The applicant approached the trial Court for bail but  
his bail plea was turned down vide order date 01.12.2011.

3.    The relevant facts of the prosecution case emerged out  
from the FIR are that on 19.10.2011, a police party headed  
by ASI Mukhtiar Ahmed Mirani left the Police Station for  
patrolling. At about 1830 hours when they reached near D.C.  
High School, on the light of vehicle saw three persons  
standing near the road with bike. Police party ordered them  
to surrender themselves, on this the accused took position  
and started firing upon the police party. Police personnel  
also made firing in their defence. During the course of  
encounter PC Manjhi Khan Abro received fire arm injuries at  
his left arm. The exchange of firing continued for about  
ten minutes, however the police apprehended two culprits  
while third accused made his escape good. Police recovered

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two pistols from both apprehended accused, which were found to be unlicensed. On an enquiry they disclosed the name of third culprit as Raja alias Shoaib Lakho. Such memo was prepared at the spot, thereafter the applicant/accused as well as case property were brought at the Police Station and a case on behalf of the State was registered.

4. Learned counsel for the applicant has inter-alia contended that the applicant is innocent and has been falsely implicated in this concocted case. He further contended that neither the applicant is a criminal nor he is indulged in a criminal activities in past. Per learned counsel specific role of causing fire arm injuries is attributed to co-accused Raja and that the medical evidence also creates doubt about the truthfulness of the prosecution version. He lastly contended that the applicant is rotting in a Jail since 19.10.2011 and the conclusion of the trial is not within sight.

5. Conversely, learned DPG appearing for the State has opposed the bail plea of the applicant and submitted that the name of the applicant transpires in the FIR and since the applicant has been apprehended from the place of occurrence alongwith an unlicensed TT pistol and that the medical evidence also corroborates the ocular version.

6. Admittedly the name of applicant transpires in the FIR and he is said to be arrested from the place of occurrence alongwith an unlicensed pistol However, perusal

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of the FIR would stipulate that it was co-accused Taufeeq, who allegedly caused fire arm injury to PC Manjhi Khan Abro. During the course of arguments, learned counsel for the applicant placed on record copy of report of Special Medical Board. Upon a perusal of such report, it appears that under the orders of D.G Health Services Sindh Hyderabad, the medical board was constituted with regard to the injuries of injured PC Manjhi Khan but it appears that on three consecutive dates i.e. 14.12.2011, 28.12.2011 and 11.01.2012, injured PC Manjhi Khan failed to appear, therefore medico-legal certificate issued by Dr.Muhammad Hassan Shah Medical Officer Taluka Hospital, Ghotki in respect of injured PC Manjhi Khan was kept in abeyance. Report further reveals that second time, the Special Board was constituted under the orders of Judge Anti-Terrorism Court, Sukkur. However, again the injured PC did not appear before the Special Board on number of occasions therefore again the certificate issued by the said Doctor was kept in abeyance. It is very strange that again third Special Board was constituted under the orders of trial Court and the date was fixed on 05.09.2012 when injured Manjhi Khan appeared before the Board and was examined by the members of Special Medical Board but surprisingly CMO Taluka Hospital, Ghotki preferred to remain absent and did not appear before the Special Medical Board. Again on 19.9.2012 and 26.09.2012 Dr.Muhammad Hassan Shah did not appear before the Board, therefore, due to above circumstances the

Special Medical Board could not decide the case.

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7. Keeping in view the report of the Special Medical Board coupled with the facts that the applicant is behind the bar for about a year without any progress in the trial and apart from above no role is assigned to the applicant except his presence, we are of the considered view that the applicant has made out a case for bail. Consequently, instant application is allowed provided the applicant furnishes P.R bond in the sum of Rs.100,000/- and surety in the like amount to the satisfaction of the trial Court.

  
JUDGE

  
JUDGE

Akber.