

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD.**
Cr.Misc.A.No.S-215 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE
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For katcha peshi.

21.08.2017.

Mr. Waqar Ahmed Memon, advocate for applicant.

None present for respondents.

Mr. Erum Ahmed, D.D.P.P. for the State.

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ABDUL MAALIK GADDI, J- Through instant Criminal Miscellaneous Application applicant/complainant has challaned the order dated 12.3.2014 passed by learned Ist-Additional Sessions Judge, Hyderabad, whereby the interim pre-arrest bail already granted to the respondents No.1 &2/accused was confirmed on the same terms and conditions, vide crime No.28 of 2014 for offence punishable under sections 324, 147, 148, 149, 427, 392 PPC of police station Market.

2. Facts in brief lodged by complainant Mohammad Ali are that on 14.02.2014 at about 1615 hours one of his friend Muhammad Sultan Ghullo informed him on phone that the complainant's son namely Aqeel Ahmed received firearm injuries near Bone Care Hospital Hyderabad and he has been brought at Civil Hospital. On receiving such information, complainant reached at Civil Hospital and found his son Aqeel Ahmed in Emergency Ward, who had received firearm injuries on his hips and the police was also available near to the injured. Son of complainant Aqeel Ahmed informed him that one of his friend Arbaz Memon had taken Rs.,20,000/- loan from him which was demanded by injured before going to China but said amount was not returned. His son had gone to China and after completing tour, he again demanded money from Arbaz Memon, on which, Arbaz asked him to come near the Bone Care hospital Hyderabad, to receive amount in question. On reaching near to Bone Care Hospital , injured met with one Sultan and uncle Khair Mohammad, who also sat in

the Car of the victim in backside while injured remained sitting on driving seat. In the meanwhile, five persons riding on two motorcycles came there, effecting firing from backside of the car, who were identified as Ayaz son of Zulfiqar Memon, Murtaza son of Zulfiqar Memon, Muzammil Lashari son of Sikandar Lashari, Ammar Pasha son of Mohammad Arif and one unknown person who can be identified on seeing. Arbaz Memon and Murtaz Memon came towards the driving side while Muzamil Lashari and others came from the left side of the Car. Arbaz Memon said to Aqeel Ahmed that neither he would be spread nor the question of money will rise saying so Arbaz Memon fired from his pistol, in resulting Aqeel Ahmed received bullet injury on his right hip while Muzamil Lashari fired from the other side and his bullet also hit to the another hip of victim. Arbaz Memon took a mobile of victim from the Car's dashboard and then all accused persons fled away. Subsequently complainant appeared at police station and lodged present FIR.

3. It is stated by the learned counsel for applicant/complainant that respondents No.1 and 2 are nominated in FIR with specific allegation that they were available alongwith main accused at the place of incident and they have also played an active role in the commission of offence, but the trial court did not consider the same in its true prospective. He further submits that the respondents No.1 and 2 alongwith main accused snatched / robbed the mobile phone from dashboard of the car, hence, the respondents No.1 and 2 are conjointly responsible for committing robbery, therefore, he prayed that the bail in favour of the respondents No.1 and 2 may be cancelled.

4. Learned D.D.P.P for the State supported the impugned order by arguing that the impugned order is perfect in law and has been passed after considering on material and documents on record.

5. Perusal of contents of FIR reveals that there are general allegations leveled against the present respondents No.1 and 2 as only their presence is shown at the place of incident and no specific role is assigned to them in commission of alleged offence. Co-accused Muzamil Ali and Muhammad Arbaz have been granted bail by this Court today in criminal bail applications No.S- 282 and 352 of 2014 and the

detailed reasons have also been given in the said order. It also appears from the record that the respondents No.1 and 2 are attending the Court regularly. I have perused the impugned order passed by the trial court and found that prima facie reasonable grounds are not exist for believing that respondents have committed the offence charged with. Learned trial court for quite sufficient and convincing reasons, had granted bail to the respondents No.1 and 2 by means of speaking order and no justification is available for interfering with the discretion judiciously exercised by it.

6. In view of the above, this Criminal Miscellaneous Application having no merits stands dismissed. Since, the matter pertains to the year 2014, therefore trial court is directed to proceed the matter expeditiously and decide the same within the period of three months. No unnecessary adjournments shall be granted to either side.

7. Needless to mention here that the observations made hereinabove are tentative in nature and shall not affect the merits of the case.

JUDGE