

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Application No.S-406 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>07.09.2017.</u>	<p style="text-align: center;">For hearing.</p> <p>Applicants are present in person. Mr. Faisal Nadeem Abro, Advocate holds brief for Mr. Shoukat Ali Kaka, Advocate for the applicants. Mr. Shahid Ahmed Shaikh, D.P.G for the State. Complainant Muhammad Saleem is present in person.</p> <p style="text-align: center;">===</p> <p><u><i>ABDUL MALIK GADDI,J-</i></u> Applicants/accused are present on interim pre-arrest bail granted to them by this Court vide order dated 25.05.2017. Today this bail application is fixed for confirmation or otherwise.</p> <p>2. Brief facts of the prosecution case are that on 04.5.2017 at about 2200 hours, complainant Muhammad Saleem appeared at P.S. Rahoki and lodged F.I.R. regarding the incident took place on 14.04.2017, alleging therein that his wife Noor Jehan is head mistress at government girls primary school situated at village Budho Khan Siyal. On 14.04.2007 at 8.00 a.m, he went on duty suddenly on the way received call from his wife that accused persons namely Muhammad Ishaque, Ramzan, Zameer, Zaheer, Tahir, Shahnawaz, Ali Gul and Ali Hassan, all were sitting in the car and listen the songs loudly infront of main gate of girls school. As such complainant rushed and saw two cars bearing No.AMY-856 Corolla white colour and another car bearing No.AUT-773 black colour Corolla were standing there and above named accused persons were sitting, who were restrained by the complainant, on which, accused Zaheer took out pistol and Ramzan took repeater and issued straight fire upon chest of complainant. Thereafter accused Zaheer caught his hairs and other accused persons used abusive language so also beaten the complainant with kicks and fists. In the meanwhile on hue and cry, son of complainant namely Munawar Ali came, who was also beaten at the hands of accused persons and they both sustained injuries and while making aerial firing accused persons went away. Thereafter, complainant side took police</p>

letter for treatment and obtained orders from District & Sessions Judge, Hyderabad and lodged the instant F.I.R.

3. It is argued by the applicants that they have been falsely implicated in the case due to enmity. They argued that F.I.R. is delayed for about 20 days without plausible explanation. They further argued that all the sections are bailable except sections 506(2) and 337-A(ii), case does not fall within prohibitory clause of section 497, Cr.P.C. All P.Ws. in the instant case are interested and no independent witness has been cited from the locality. Lastly they have prayed for confirmation of bail.

4. Learned D.P.G. assisted by complainant though opposed this bail application, but he is not in a position to controvert the above legal and factual position.

5. Heard applicants in person and learned D.P.G. alongwith complainant and have gone through the record available before me.

6. It appears that the alleged incident took place on 14.4.2017, but the F.I.R. has been registered on 04.5.2017 after delay of about 20 days, for which, no explanation has been furnished, as such, on this ground alone false implication of the applicants/accused in this case with due deliberation and consultation cannot be ruled out. It appears from the record that challan against the applicants/accused has already been submitted before the trial Court and these applicants are no more required for further investigation. The allegations against the applicants/accused are that they collectively caused `danda` and butt blows of the pistol to the complainant Muhammad Saleem and PW Munawar. Though these PWs were referred to the medical officer and in his report, the medical officer has not declared the injuries to the PWs as dangerous, on the contrary, the injuries attributed to the applicants have been declared as 337-L(ii) and A(ii) and F(i) respectively and their punishment does not fall within prohibitory clause of section 497, Cr.P.C.

7. As observed above, all the sections applied in this case are either bailable or their punishment do not fall within prohibitory clause of section 497, Cr.P.C. Under such circumstances, propriety demands that the grant

of bail is a rule and refusal is exceptional, but in this case no exceptional circumstances is made out by the complainant to withhold the bail of the applicants, therefore, I am of the view that the applicants have made out a case for confirmation of their bail. I, accordingly confirm the interim order already extended in favour of the applicants on the same terms and conditions with direction to the applicants to appear before the trial Court and face the trial. The trial Court is directed to conclude the trial within a period of two months after receipt of this order and no un-necessarily, adjournment shall be granted to either side.

8. It is stated by the complainant, who is present in person that he may be provided protection to the life and property. Under the circumstances, SHO P.S. Rahoki, District Hyderabad is directed to provide all legal protection to the life and property of the complainant under the law.

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

The bail application stands disposed of in the above terms.

JUDGE.