

Order sheet
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 603 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
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1.2.2018

For hearing

Mr. Muhammad Zaman Zanur, advocate for applicants

Mr. Shahzado Saleem Nahiyoon, D.P.G.

OMAR SIAL, J.- Applicant Abdul Hameed and Manthar have sought pre-arrest bail in Crime No. 128 of 2017 registered under Section 337-H(ii), A(i), F(i), E(i), (vi), 506(2), 504, 147, 148 & 149 PPC, at Shahdadpur police station district Sanghar. Earlier his pre-arrest bail application was turned down by the learned Additional Sessions Judge, Shahdadpur on 30.6.2017.

2. The F.I.R. in the case was registered by complainant Abdul Rehman on 12.6.2017. He reported that on 27.5.2017 he along with his brother Khadim Hussain and a relative named Muhammad Alam were watering their lands when at about 0620 hours accused Abdul Haq Jamali, Shahnawaz Jamali (armed with pistols), Abdul Rasheed Jamali (holding a hatchet), Saleem Jamali and Rashid Jamali (armed with guns), Manthar Jamali and Abdul Hameed @ Shero Jamali (both Applicants, holding cudgels), and Abdul Aziz (holding an iron rod) with whom they had an existing dispute over land came and exchanged harsh words over water rotation to the lands. The accused holding weapons fired aurally whereas the accused with the sticks (i.e. the applicants) and hatchet (Abdul Rasheed Jamali) hit his brother Khadim Hussain who was injured.

3. I have heard the learned counsel for the Applicant, as well as the learned DPG. My observations are as follows:-

- i. The learned counsel has argued that as accused Abdul Haq, Shahnawaz, Saleem Gul, Rashid Gul and Abdul Aziz have been granted bail, the Applicants too are entitled to bail on the ground of consistency. With much respect to the learned counsel, the case of the remaining accused is on a different footing. It is only the Applicants and Abdul Rasheed Jamali (who has not been granted bail till today) who were assigned the role of hitting the injured. The remaining accused were assigned the role of aerial firing whereas Abdul Aziz Jamali (holding an iron rod and granted bail)

was not alleged to have hit the injured. The rule of consistency therefore, in my opinion, does not come to play in the circumstances of the case.

- ii. Based on the medical report on the file it appears that the blows inflicted to the complainant's brother have caused serious injury to him in that the blows have fractured and dislocated the bone of the left knee joint. The injury appears to fall within the definition of 337-E(vi) P.P.C. i.e. jurh ghair jaifa munaqqilah. The offence carries a possible punishment of upto 7 years and although it falls within the non-prohibitory clause of section 497 Cr.P.C., I have not given a concession to the Applicant on this ground alone due to the seriousness of the injury and the fact that the injured may not be able to walk properly again.
- ii. The learned counsel has argued on the issue of delay in lodging the F.I.R. I have considered this aspect but am of the view that the reasons for the delay can only be established after evidence is led. I am not inclined to the grant of bail on this count.

4. In view if the above, the bail application is dismissed with directions to the learned trial court to make its best efforts to conclude the trial within a reasonable time preferably within three months.

JUDGE