

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

Cr. B.A. No. S- 710 of 2016

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<b>DATED</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
31.01.2018	

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For hearing

Mr. Imran Ali Borano, advocate along with applicant  
Mr. Shahid Ahmed Shaikh, D.P.G.

**OMAR SIAL, J.-** Applicant Anees-ur-Rehman has sought pre-arrest bail in Crime No. 9 of 2012 registered under Section 302, 324, 337-F(v), 114, 504, 148, 149 P.P.C. at the Rajo Dero police station district Dadu. Earlier his pre-arrest bail application was turned down by the learned 2<sup>nd</sup> Additional Sessions Judge, Dadu on 20-8-2016.

2. The F.I.R in this case has been lodged by Gulzar Ali Chandio on 4-11-2012. He stated that there is a dispute between his family and that of Imam Bux Chandio over land. On 2-11-2012 he was going to the lands with some of his relatives when they were waylaid by 20 persons who were all armed with a range of weapons which included G-3 rifles, Kalashnikovs, shot guns, light machine guns. The Applicant was one of those 20 people and was allegedly carrying a Kalashnikov at that time. One of the accused Ghulam Ali instigated the others to kill the complainant party. On his instigation, accused Nisar Chandio fired at the complainant's father-in-law (Sobdar Chandio), accused Imam Bux also fired at Sobdar Chandio with his weapon, accused Sharif also fired at Sobdar. The Applicant fired at a relative of the complainant named Buxial, which fire hit his right shoulder. Accused Fazul fired from his weapon at Buxial too whereas the rest of the accused also fired at the complainant party but no one was injured. Sobdar Chandio died and Buxial was injured, hence the above FIR was registered.

3. I have heard the learned counsel for the Applicant as well as the learned D.P.G. and have also examined the record with their able assistance. The complainant remained absent. My observations are as follows.

- i. Prima facie it seems odd that 20 heavily armed persons came on the scene with intention to murder the entire complainant family but managed to hit only 2 and kill only 1 while the rest of the members of the complainant party miraculously escaped. Prima facie it also seems odd that the complainant with such great accuracy and while under attack from 20 heavily armed persons identified each accused with his parentage and could also identify the type of weapons they carried and who from amongst the assailants shot whom and on which part of the body. This aspect of the case can conclusively be decided after evidence is led in trial.
- ii. There is an admitted age old tribal enmity between the parties and in the circumstances throwing the net wide by the complainant with ulterior motives cannot be conclusively ruled out at this stage.
- iii. The bullet attributed to the Applicant is said to have hit the right, upper shoulder. It appears from the medical report that the injury did not dislocate any bone. At this stage, at best the injury could be classified as ghair jaifa hashimah which carries a punishment of 5 years and falls within the non-prohibitory clause of Section 497 Cr.P.C. The type of injury and whether it could possibly carry a lesser sentence can only be determined after evidence is led. Whether or not the Applicant was present at the spot and whether or not he shared a common intention with those accused who are said to have murdered Sobdar Chandio will also have to be determined after trial. The case of the Applicant appears to be one of further inquiry.

4. Above are the reasons for my short order of 31-1-2018 in terms of which the Applicant's interim pre-arrest bail granted on 2-9-2016 was confirmed on the same terms and conditions.

JUDGE