

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
Cr. Bail Appln. No.S-334 of 2017

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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*FOR HEARING.*

24.08.2017.

*Mr. Mushtaque Ahmed Memon, Advocate for applicants.  
M/s. Shahid Ahmed Shaikh, D.P.G and Erum Ahmed, DDPP.  
None present for the complainant.*

**ORDER**

**ABDUL MALIK GADDI, J:-** Applicants/accused *Maqbool Ahmed, Hassan and Azizullah* are present on interim pre-arrest bail granted to them by this Court vide order dated 03.05.2017. Today this bail application is fixed for confirmation or otherwise.

2. The allegations against the applicants/accused as disclosed in the FIR are that on 06.03.2017 when the complainant namely Qambar Ali alongwith deceased Nawab Nohani was available at Machhiari Regulator situated on the way to village Mirzo Nohani. All of sudden due to enmity the present applicants/accused Hassan and Azizullah, who were armed with hatchet, allegedly caused hatchet blow to P.Ws Mirzo and Manzoor on their foot and other non-vital part of the body. Whereas, the principal accused Dildar caused fire arm injury to deceased Nawab Nohani.

3. Learned Counsel for the applicants/accused submits that the applicants/accused have been falsely implicated in the present crime and they were found innocent during investigation by the Investigating Officer, therefore, their names were placed in Column No.2 of the challan but the learned Magistrate joined them as accused and issued N.B.Ws against them. As per learned Counsel, it is the case of two versions, one submitted by the

complainant and the other submitted by the Investigating Officer and which version is correct, requires further probe. He further submits that principal accused Dildar, against whom there is direct allegation of firing to deceased Nawab Nohani, has been granted bail, therefore, the case of the present applicants/accused is at better footing than that of the principal accused. He further submits that in this matter three witnesses namely complainant Qambar Ali, P.Ws Muhammad Soomar and Rafique Nohani have been examined by the Trial Court, who during their evidence have not implicated the applicants/accused in the commission of the offence and that the applicants/accused are appearing before this Court as well as Trial Court regularly, therefore, he prays that the interim order already passed in favour of the applicants/accused may be confirmed.

4. Learned D.P.G as well as D.D.P.P though opposed this bail application but they are not in a position to controvert the above factual and legal aspects of the case.

5. Heard learned Counsel for the parties and perused the record minutely. It is an admitted position that in this matter the direct allegation of firing is attributed to accused Dildar, who has been granted post-arrest bail by the Trial Court. The allegation against the present applicant/accused Maqbool Ahmed is only of instigation to the other accused for committing murder of deceased Nawab Nohani. Whereas, the allegation against applicants/accused Hassan and Azizullah are that they were armed with hatchet. Accused Hassan caused hatched blow to P.W Mirzo on his right foot, whereas, accused Azizullah allegedly caused hatched blow to injured P.W Manzoor on his non-vital part of the body. It appears from the record that three P.Ws have been examined, who have not implicated the present applicants/accused in the commission of the offence and this fact has been admitted by learned D.P.G. It also appears

from the record that during investigation the present applicants/accused have also been found innocent by I.O of the case and their names were placed in Column No.2 but this report was not accepted by the concerned Magistrate, and the applicants/accused have been joined in this case. Even otherwise, this is the case of two versions i.e. one submitted by the I.O of the case and another submitted by the complainant and which version is correct, requires further probe at trial, till then the case of the applicants/accused requires further probe.

6. In view of what has been discussed above, I am of the considered view that the applicants/accused have made out a case for their confirmation of bail. Accordingly, interim-arrest bail already in favour of the applicants/accused is hereby confirmed on the same terms and conditions with direction to the applicants/accused to appear before the Trial Court for facing the trial. However, it is clarified that the observations made here-in-above are tentative in nature and will not in any way affect the merits of the case. With these observations, the instant bail application stands disposed of in the above terms.

JUDGE

Shahid