

ORDER SHEET
IN THE HIGH COURT OF SINDH,
 CIRCUIT COURT, HYDERABAD.
 Cr. Bail Application No.S-1105 of 2015.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

03.10.2017.

Mr. Imtiaz Ali Channa, Advocate alongwith applicant.
 Mr. Shahid Ahmed Shaikh, D.P.G for the State.
 None present for the Complainant.

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ABDUL MAALIK GADDI,J- Applicant/accused is present on interim pre-arrest bail granted to him by this Court vide order dated 27.10.2015. Today this bail application is fixed for confirmation or otherwise.

2. Brief facts of the prosecution case are that complainant Illahi Bux lodged F.I.R. at P.S. A-Section, Dadu on 2.9.2015, alleging therein that altercation between his son Shakeel Ahmed and the present applicant took place over the issue of money, on which, he became annoyed with him and on the day of incident the complainant alongwith his sons Shakeel Ahmed and Aqeel Ahmed were going towards city to deliver money of meat, it was about 9.00 p.m, when they reached at CIA Culvert, were intercepted by accused Abdul Rasool who challenged complainant`s son Shakeel Ahmed and made straightway fire from his pistol upon his son Shakeel Ahmed, which hit him on his right foot, hence this F.I.R.

3. It is stated by the learned counsel for applicant/accused that applicant/accused is innocent and has been falsely implicated in this case by the complainant over money transaction. He further submits that in fact no incident had taken place in a fashion as narrated in the F.I.R. He further submits that applicant/accused is appearing before the trial Court without any substantial progress in the matter. He further submits that injury attributed to applicant/accused falls under section 337-F(iii), PPC, for which punishment is of three years, thus, according to him, case of the applicant do not fall within prohibitory clause of section 497, Cr.P.C, as such, he prayed for confirmation of interim bail already extended in favour of the applicant.

4. Learned D.P.G. has opposed this bail application on the ground that applicant/accused is named in the F.I.R. with specific role that on the day of incident, applicant/accused caused firearm injury to PW Shakeel Ahmed on his right foot ankle.

5. Arguments heard and record perused.

6. It appears from the record that there was dispute in between the parties over money transaction, thus, it appears that enmity is apparent on the face of it. The allegation against the applicant that he caused fire-arm injury to PW Shakeel Ahmed, which hit him on his right foot ankle. The injury attributed to the present applicant/accused as per medico legal report falls under section 337-F(iii), PPC, for which the punishment is not more than three years, thus, it appears that case of present applicant/accused does not fall within prohibitory clause of section 497, Cr.P.C. In such situation, grant of bail is a rule and refusal is an exception, as held by the superior Courts in many cases. No exceptional circumstance appears in this case to withhold the bail of the present applicant. Furthermore, per medical report, the injury on the person of injured PW Shakeel Ahmed received on his foot, which has not been declared by the medico legal officer as dangerous and this matter pertains to year 2015 and applicant/accused is appearing before the trial Court regularly without any substantial progress in this case. This fact has not been disputed by learned D.P.G. Under these circumstances, I am of the view that applicant/accused has made out a case for confirmation of bail. I, accordingly confirm the interim order already extended in favour of the applicant on the same terms and conditions with direction to the applicant to appear before the trial Court and face the trial. Since the matter pertains to year 2015, therefore, the trial Court is directed to expeditiously proceed with the matter and decide the same within a period of three months after receipt of this order and compliance report be submitted to this Court through Additional Registrar.

7. Be that as it may, before parting with this order, I would like to make it clear that observation made herein above, if any, is tentative in nature and shall not affect the merits of the case.

This bail application stands disposed of in the above terms.

JUDGE.