

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,**  
 CIRCUIT COURT, HYDERABAD.  
 Cr. Bail Application No.S-35 of 2016.

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
-------------	--------------------------------------

For hearing.

06.10.2017.

Mr. Qaseem Bari Gill, Advocate alongwith applicants.

Mr. Shahzado Saleem Nahiyoon, D.P.G for the State.

None present for the complainant.

===

**ABDUL MAALIK GADDI,J-** Applicants/accused are present on interim pre-arrest bail granted to them by this Court vide order dated 13.01.2016. Today this bail application is fixed for confirmation or otherwise.

2. At the very outset, learned counsel for applicants does not press the bail application of applicant No.1 Ghulam Hyder on the ground that he has been acquitted by the learned trial Court vide judgment dated 17.7.2017, and copy of the said judgment is placed on record, therefore, the bail application of applicant No.1 Ghulam Hyder has become infructuous, which is disposed of accordingly.

3. The brief facts of prosecution case as per F.I.R. are that on 11.3.2012 complainant Muhammad Younis lodged report with police station Kot Ghulam Muhammad while stating therein that he had lodged case crime No.140/2011 offence punishable under sections 392 and 341, PPC at P.S. Kot Ghulam Muhammad against the accused Hyder Sheedi whereupon he was annoyed with the complainant. On the day of incident, complainant was returning from Amb Mori towards his house and when he reached near Puran Mori deh 260, it was about 1315 hours time where accused Hyder Sheedi armed with hatchet, accused Imamuddin and Mehboob having lathies in their hands were standing there. Accused persons gave hakals to the complainant, while stating that he had filed case against them and they will not spare him, saying so, accused Hyder Sheedi gave hatchet blow to the complainant with intention to cause his murder, which hit on his face and chest and other part of body. Complainant raised cries to which PW Illahi Bux and Mumtaz attracted who gave names of God Almighty to the accused persons and rescued the complainant. Thereafter, accused persons fled away

while using abusive language. Complainant went to police station Kot Ghulam Muhammad and lodged such report with the police. Police registered the F.I.R. of the complainant and gave him letter to medical officer, Taluka Hospital Kot Ghulam Muhammad for examination, treatment and certificate. Police after usual investigation submitted charge sheet against the accused named above to face the trial.

4. It is stated by learned counsel for the applicants that case against the applicants is false and has been registered due to admitted enmity, which is apparent from the perusal of F.I.R. He further submits that allegation against the applicant/accused Ghulam Hyder is that at the time of incident he was armed with hatchet and he caused hatchet blow to the complainant/injured Muhammad Younis, which hit him on his right cheek, whereas, the allegation against the applicant Mehbood is that he caused `Danda` blows to the complainant. Learned counsel for applicants submits has argued that accused Ghulam Hyder s/o Muhammad Ramzan has already been acquitted by the trial Court vide judgment dated 17.7.2017. He further submits that the allegation against accused Imamudidn is that at the time of incident he was armed with `Danda` and he caused `Danda` blows to the complainant and that accused Imamudidn has also been acquitted by the trial Court vide judgment dated 20.12.2013 and copy of the said judgment is available on the record whereas, the role of applicant Mehboob is same to that of co-accused Imamudidn, who has already been acquitted by the trial Court. He further submits that applicant No.2/accused Mehboob is appearing before this Court as well as trial Court without any substantial progress in this case, therefore, under these circumstances, he prayed for confirmation of interim bail of applicant/accused Mehboob.

5. Learned D.P.G. for the State has opposed this bail application of applicant/accused Mehboob on the ground that the name of applicant Mehboob is appearing in the F.I.R. with specific role of causing `Danda` blow to the complainant during the commission of offence.

6. Parties advocates have been heard at length and record perused.

7. Perusal of record shows that main injury attributed to accused Ghulam Hyder and Imamuddin and these accused have already been acquitted by the

trial Court vide judgments dated 20.12.2013 and 17.7.2017 respectively passed by trial Court and copies whereof are already available on the record, therefore, bail application of applicant/accused Ghulam Hyder has become infructuous and the same is disposed of. However, the case of applicant Mehboob is concerned, there is only allegation against him that he alongwith co-accused Imamuddin caused `Danda` injury to the complainant/injured Muhammad Younis, which hit him on his non-vital part of the body and the same has not been declared by the medico legal officer as dangerous or detrimental to his life. This case pertains to year 2012 and this applicant/accused is appearing before the trial Court without any substantial progress.

8. Since the accused Ghulam Hyder has been acquitted by the trial Court, against whom the allegation was that he caused hatchet injury to the injured/complainant Muhammad Younis, whereas, the allegations against the applicant Mehboob alongwith co-accused Imamuddin are that they caused `Danda` blows to the complainant. It is an admitted position that co-accused Imamuddin whose role is similar to the present applicant Mehboob has also been acquitted by the trial Court vide judgment dated 20.12.2013 and copy of the said judgment is on record, therefore, it appears from the record that the role of applicant Mehboob is identical to that of co-accused Imamuddin, who has already been acquitted by the trial Court, hence the case of applicant Mehboob is required for further probe. In view of above legal position, I have no option except confirmation of interim bail, therefore, I allow this bail application and confirm the interim pre-arrest bail already extended in favour of the present applicant Mehboob vide order dated 13.01.2016 on the same terms and conditions with direction to the applicant to appear before the trial Court and face the trial.

9. Be that as it may, it is made clear that observations made herein above, if any, are tentative in nature and shall not affect the merits of the case.

The bail application stands disposed of in the above terms.

g

JUDGE.