

**ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Application No.S-730 of 2017.

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
<u>27.09.2017.</u>	<p style="text-align: center;">For hearing.</p> <p>Mr. Bhagwandas Bheel, Advocates for the applicant. Mr. Irum Ahmed D.D.P.P. for the State. None present for the complainant.</p> <p style="text-align: center;">===</p> <p><u><i>ABDUL MAALIK GADDI,J-</i></u> Having remained unsuccessful in obtaining his release on bail from the trial Court in crime No.67 of 2017, registered under section 394 and 337-A(i) and 34, PPC of P.S. Umerkot City, the applicant Rattan s/o Laloo Malhi is now seeking his release on bail through instant bail application.</p> <p>2. The allegation against the applicant/accused is that on 14.7.2017 at 2000 hours, the applicant alongwith co-accused persons duly armed with pistol caused butt blow to PW Gulab on his head and also caused kicks and fists blows to the complainant, robbed Q-mobile phone and cash of Rs.4000/- as well as CD-70 motorcycle from the complainant and went away.</p> <p>3. It is stated by learned counsel for the applicant/accused that case against the applicant/accused has been registered due to enmity. He further submits that co-accused Sikandar and Muhammad Alam Javeed have been granted bail by the trial Court vide order dated 2.8.2017 and 16.8.2017 respectively though the case of present applicant is on better footing, as according to the learned counsel for applicant, the present applicant did not cause any injury to PW Gulab. As far as the recovery as alleged by the prosecution from the possession of the applicant is concerned, according to him, the recovery is foisted upon him as this applicant has inimical terms with the SHO P.S. Umerkot City and in this regard he has placed on record certified true copy of Cr. Misc: Application No.516/17 filed by the brother of the applicant against SHO Umerkot City before Sessions Judge, Umerkot</p>

for recovery of present applicant and the trial Court vide his order dated 21.7.2017 disposed of the same as brother of the applicant was not traced out. He further submits that the F.I.R. is delayed by three days, for which, no explanation has also been furnished, as such, he was of the view that perhaps the incident has not taken place in a fashion as alleged in the F.I.R.

4. Learned D.D.P.P. has opposed the bail application on the ground that name of the present applicant is appearing in the F.I.R. with specific role that at the time of incident he was armed with pistol, but according to learned D.D.P.P, he did not cause any pistol blow to PW Gulab. Learned D.D.P.P. further submits that applicant/accused was arrested on 20.7.2017 and motorcycle alongwith Q-mobile phone was recovered from the applicant on his pointation.

5. I have given my anxious thoughts to the contention raised at the bar and have gone through the police papers so available before me.

6. It appears from the record that incident took place on 14.7.2017, but F.I.R. was registered on 17.7.2017 after delay of three days, for which, no satisfactory explanation has been furnished, therefore, it is yet to be seen at the time of trial whether the incident has taken place in a fashion as alleged by the complainant in the F.I.R or otherwise. Co-accused Sikandar and Muhammad Alam Javeed have been granted bail by the trial Court vide orders dated 2.8.2017 and 16.8.2017 respectively.

7. During course of the arguments, learned D.D.P.P. concedes that this applicant/accused has not caused any injury to PW Gulab. As far as the recovery shown against the present applicant/accused is concerned, in this respect I have gone through the certified true copy of Cr. Misc: Application No.516/17 filed by the brother of applicant against SHO P.S. Umerkot City under section 491, Cr.P.C. which is already on record showing that brother of the applicant filed application u/s 491, Cr.P.C. for recovery of present applicant, therefore, the ground as agitated by learned counsel for applicant, the recovery has been foisted against the applicant and the same cannot be ruled out in view of filing Cr. Misc: Application No.516/17, therefore, it is to be considered at the time of trial whether the alleged recovery as shown against the applicant has been made voluntarily or otherwise till then the

case of applicant requires further probe. Admittedly, challan against the applicant/accused has been submitted and this applicant is no more required for further investigation. Co-accused have already been granted bail by the trial Court, therefore, in view what has been observed above, I am of the opinion that applicant has made out a case for bail. I, accordingly allow this bail application and applicant is admitted to bail, subject to his furnishing solvent surety in the sum of Rs.50,000/-[Rupees fifty thousand] and PR bond in the like amount, to the satisfaction of trial Court.

8. Needless to mention here that the above observations made herein above are tentative in nature and would not affect the merits of the case.

JUDGE.

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