

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

Cr. Bail Applications No.S-390, 880, 911 and 963 of 2014.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>28.09.2017.</u>	<p style="text-align: center;">For hearing.</p> <p>Applicants are present on interim bail. Mr. Abdul Razak Dasti, Advocate holds brief for Mr. Altaf Hussain Chandio, Advocate for applicant Shujauddin @ Sajjad in Cr.B.A. No.S-390/14. Mr. Agha Kashif Hussain, Advocate for applicants Sher Ali Lakho and Nazar Muhammad in Cr.B.A.No.S-880 and 911/14. Mr. Ubaidullah Memon, Advocate for applicant Alamuddin @ Allam Keerio in Cr.B.A. No.S-963/14. Syed Meeral Shah Bukhari, Addl: P.G for the State. Mr. Kamran Baig, Advocate for the Complainant.</p> <p style="text-align: center;">===</p> <p><u>ABDUL MAALIK GADDI,J-</u> By this common order, I intend to dispose of above four bail applications, as they arise out of same F.I.R being crime No.55/2014 under sections 324,337-H(ii), 114,504, 147 and 148, PPC registered at Police Station, Sakrand, in which, the applicants are seeking their bail.</p> <p>2. These applicants/accused are present on interim pre-arrest bail granted to them by this Court vide orders dated 21.4.2014, 28.8.2014, 4.9.2014 and 17.09.2014 respectively. Today these bail applications are fixed for confirmation or otherwise.</p> <p>3. Brief facts of the prosecution case are that complainant Zeshan Ahmed Khanzada lodged F.I.R at P.S. Sakrand on 23.3.2014 stating therein that accused Gul Hassan used to reside in neighborhood. On 22.3.2014 an altercation took place between complainant and Gul Hassan on the issue of children. Then they resolved the matter. Accused Gul Hassan issued threats to them. In the night complainant alongwith his brother Muhammad Sarwar, Azmat Mehmood and Shahzaib were present in front of their houses. One Car No.AWJ-159 Alto Gray Color Model-2011 came and accused Gul Hassan, Iqbal, Atta Muhammad, Allam and Sajjad duly armed with pistols.</p>

While accused Nazar, Sher Ali, Luqman and eight unknown persons having lathies and pistols came on motorcycles and foots. Accused Gul Hassan abused complainant party and instigated to other accused that Muhammad Sawar had misbehaved with him to kill him. On his instigation accused Sajjad made firing upon Muhammad Sarwar with intention to commit his murder and such fire hit him on his head who fell down, while raising cries. Allam Keerio made fire upon Azmat Mehmood which hit him on his right leg who also fell down. Gul Hassan made fire upon Shahzaib with intention to commit his murder, which hit him on his left thigh. On the cries of complainant, remaining accused persons made aerial firing and decamped. Then injured were shifted to PS Sakrand and after obtaining letter were shifted to Taluka Hospital, Sakrand and then instant F.I.R. was lodged.

4. It is stated by the learned counsel for applicants/accused Sher Ali and Nazar Muhammad that case against them is false and has been registered due to enmity, besides according to him, though the names of the applicants/accused are appearing in the F.I.R, but according to police papers and investigation carried out by the I.O, there is only allegation against them that at the time of incident, they allegedly made aerial firing and at the most the case against them falls under section 337-H(ii), PPC, which is bailable and also punishment of this section does not fall within prohibitory clause of section 497, Cr.P.C. According to him, these applicants are appearing before the trial Court regularly and in this matter, three prosecution witnesses have been examined by the trial Court and they have also not supported the prosecution case, therefore, according to him, in this scenario of the case, the interim bail already extended in favour of these applicants/accused may be confirmed.

5. It is stated by the counsel for applicant/accused Alamuddin @ Allam Keerio that the case of this applicant/accused is also false and based on enmity on the basis of children issues. He further submits that there is allegation against accused Allam Keerio that at the time of incident he made fire at PW Azmat, which hit him on his right leg, which is non-vital part of the body and this injury falls under section 337-F(vi) and 337-F(i), PPC and the same does not come within prohibitory clause of section 497, Cr.P.C. He further submits that compromise has been taken place in between the

applicants/accused and the complainant party. He further submits that this case is outcome of Crime No.56 of 2014, registered at P.S. Sakrand, in which, opposite party has already been acquitted.

6. Applicant/accused Shujauddin @ Sajjad is present, he has been heard. He submits that injury attributed to him has been described by medico legal officer as Shujjah-e-Khafifa falls under section 337-A(ii), PPC, for which, punishment is of two years, as such, this punishment does not fall within prohibitory clause of section 497, Cr.P.C. Hence he prayed for confirmation of interim bail order already extended in his favour.

7. Learned Addl. P.G. assisted by learned counsel for the complainant in view of the above stated legal and factual position of the case have recorded their no objection if these bail applications are allowed and interim order already extended in favour of the applicants may be confirmed.

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

9. No doubt, the names of applicants are appearing in the F.I.R. and as per record it appears that the applicants/accused are appearing before the trial Court. The challan against them has already been submitted before the competent Court of law and they are no more required for further investigation. It is stated by Mr. Agha Kashif Hussain, Advocate that in this matter the trial Court has already recorded the evidence of three prosecution witnesses and those have not supported the prosecution case. This fact has not been controverted by the learned counsel for the complainant and he submits that it is a case of counter version and in counter version case being Crime No.56/2014 all the accused persons have been acquitted by way of compromise.

10. Perusal of record shows that there is only allegation against the applicants Ali Sher Lakho and Nazar Muhammad that they only allegedly made aerial firing and the case against them at the most falls under section 337-H(ii), PPC, which is bailable and also does not come within the prohibitory clause of section 497, Cr.P.C. As far as the allegations against the accused Shujauddin @ Sajjad and Alamuddin @ Allam Keerio are

concerned, it appears that though their names are appearing in the F.I.R. and as per allegation, the accused Sajjad made firing upon PW Muhammad Sarwar, which hit him on his head and injury attributed to this applicant has been described by medico legal officer as Shujjah-e-Khafifa falls under section 337-A(i), PPC, for which punishment of two years, thus, the case of applicant do not fall within prohibitory clause of section 497, Cr.P.C.

11. The allegation against applicant Alamuddin @ Allam Keerio is that he made firing upon PW Azmat, which hit him on his right leg, which is non-vital part of the body and the injury attributed to this applicant has been described by medico legal officer as 337-F(i) and 337-F(vi), PPC, which too the punishment do not fall within prohibitory clause of section 497, Cr.P.C.

12. Admittedly, it is a counter case of Crime No.56 of 2014 registered at same police station and in the said case, accused has already been acquitted by way of compromise and as per complainant in this case, three prosecution witnesses have already examined, but they have not supported the prosecution case, as such, he has recorded no objection if these bail applications are allowed.

13. In view of above, I find good cogent reasons for allowing these bail applications. I, therefore, allow these bail applications and confirm the interim orders already extended in faovour of the applicants on the same terms and conditions with direction to the applicants to appear before the trial Court and face the trial. Since the matter pertains to year 2014, 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.

14. 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.

These bail applications stand disposed of in the above terms.

JUDGE.

