

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

Cr. Bail Applications No.S-604 and 610 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
<p><u>09.10.2017.</u></p>	<p>For hearing.</p> <p>Mr. Amjad Ali Sahito, Advocate alongwith applicant Asif Khan Agha Mr. Muhammad Ali Rind, Advocate alongwith applicant Ismail Khan. Mr. Shahzad Saleem Nahiyoan, D.P.G for the State alongwith complainant ASI Muhammad Boota.</p> <p style="text-align: center;">===</p> <p><u><i>ABDUL MAALIK GADDI, J-</i></u> By this common order, I intend to dispose of above two bail applications, as the same have been arise out of common order passed by learned trial Court dated 22.7.2017 and also arise out of same crime bearing No.44/2017 under sections 353, 506(2), 147,148, 149, 337-A(i) and F(i), PPC at Police Station, Kunri, District Umerkot.</p> <p>2. These applicants/accused are present on interim pre-arrest bail granted to them by this Court vide orders dated 25.07.2017 and 26.07.2017 respectively. Today these bail applications are fixed for confirmation or otherwise.</p> <p>3. It appears from the record that applicants/accused have applied for bail before arrest before the trial Court, but the same was rejected by the order dated 22.7.2017, which is impugned before this Court.</p> <p>4. According to the F.I.R, on 02.5.2017 the applicants/accused alongwith co-accused entered into police station, kunri formed an unlawful assembly with their common object, caught hold PC Sajad Iqbal from shoulder and also caused fists blows to him.</p> <p>5. It is stated by the learned counsel for applicants that case against the applicants/accused is false and has been registered due to enmity. They further submitted that names of applicants/accused are not appearing in the F.I.R. and according to them, in fact the applicants had not played any role in the commission of offence, but local police due to malafide intention join</p>

the applicants/accused in this case just to pressurize them. They further submitted that at the time of submission of report under section 173, Cr.P.C. the names of present applicants/accused were placed in column No.2, therefore, according to them, it is case of further inquiry whether applicants/accused have played any role in the commission of offence or otherwise, till then the case requires further probe.

6. Learned D.P.G. for the State assisted by complainant ASI Muhammad Boota has opposed these bail applications on the ground that these applicants/accused were named by the prosecution witnesses in their statements under section 161, Cr.P.C, however, during course of arguments he concedes that at the time of submission of report under section 173, Cr.P.C, the names of present applicants/accused were placed in column No.2.

7. Arguments heard and record perused.

8. It is an admitted fact that names of applicants/accused have not been mentioned in the F.I.R. and no identification parade has been held in this case. Complainant present in Court submits that applicants/accused were named by the PWs in their 161, Cr.P.C. statements and when the report was submitted before the trial Court, the names present applicants/accused were placed in column No.2 of the challan sheet. In the circumstances, it is yet to be determined at the time of trial whether the offence as alleged by the complainant has been committed by the present applicants/accused or otherwise. Co-accused Zaid Ahmed Talpur, Lachman, Nawab Hassan, Muhammad Yakoob and Shafi Muhammad Abdul Karim have already been granted bail by the trial Court almost on same facts, therefore, following the rule of consistency, applicants/accused are also entitled for the same treatment. Besides the offence, for which, the applicants/accused have been challaned in the case are either bailable or their punishment do not fall under the prohibitory clause of section 497, Cr.P.C. Applicants/accused are appearing before the trial Court without any substantial progress, therefore, under the circumstances, I allow these bail applications and confirm the interim orders already extended in favour of the applicants/accused on the

same terms and conditions with direction to the applicants to appear before the trial Court and face the trial.

9. Since the applicants/accused are appearing before the trial Court without any substantial progress, 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 without granting any un-necessarily adjournments to either side. Compliance report be submitted to this Court through Additional Registrar.

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

These bail applications stand disposed of in the above terms.

JUDGE.

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