

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

Cr.Bail.Appln.No.S- 585 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

1. For orders on MA No.5138/17
2. For hearing.

28.08.2017.

Mr. Imtiaz Ali Channa, advocate for applicant.

Mr. Eruam Ahmed, D.D.P.P. for the State.

None present for complainant.

=

**ABDUL MAALIK GADDI, J-** Having remained unsuccessful in obtaining his release on bail from the trial court in Crime No.17 of 2017 registered under sections 324, 337-A(i), F(i), 147, 148, 149, 440, 504 PPC at Police Station Khudabad, now the applicant Bashir Kingrani son of Ramzan Kingrani is seeking his release on bail through instant bail application.

2. Brief facts of the prosecution case are that the complainant party and accused party reside in two different villages situated in same locality and they use to graze their cattle jointly, some days prior to incident the boys of accused party brought their cattle for grazing near the houses of complainant party and the boys of complainant party sent back their cattle due to which accused Ghulamoon and others annoyed. On 19.05.2017, complainant, his son Inayatullah, uncle Abdul Rehman and nephews Aslam and Muhammad were returning back on motorcycles from Bhan Syedabad town to their village, when at about 1430 hours they reached near curve of their village, they saw accused

Ghulamoon armed with pistol, Ilyas, Sulleman, Umer, Ghulam Ali, Niaz Ali and Allah Bachayo with Dandas and Bashir armed with pistol were standing, they by abusing stated them to stop, they stopped their motorcycles, in the meantime accused Ghulamo shot straight fire upon Aslam in order to commit his murder which hit to him on his right leg buttock who after crying fallen down, accused Bashir shot straight fires with his pistol upon Inayatullah in order to commit his murder which hit to him on right leg buttock and left arm wrist who having raised cry fallen down, accused Ilyas and Sulleman inflicted Dandas blows to complainant on his head and left hand little finger, accused Umer and Ghulam Ali inflicted Danda blows to Abdul Rehman on his head, accused Niaz Ali and Allah Bachayo caused Danda blows to Muhammad on his back and left hand due to that complainant and P.Ws fallen down then all accused caused hurts to them on their person. In the meantime villagers came running by seeing them and after abusing accused persons went away.

3. Mr. Imtiaz Ali Channa, learned counsel for applicant/accused argued that the case against applicant is false and has been registered due to dispute over landed property; that applicant was released by police under Section 497 Cr.P.C, but the learned Magistrate joined him, hence case against him requires evidence; that the complainant in his FIR has shown two injuries on the person of injured Inayatullah but the medical certificate shows four injuries on his person, hence, the case of applicant is fit for bail; that co-accused Ghulamo has been admitted on bail in this case, therefore, applicant/accused is also entitled for same concession on rule of consistency.

4. Learned D.D.P.P present in Court has not disputed the above position.

5. I have given my anxious thoughts to the contentions raised at bar and have gone through the material so available before me. Admittedly, the name of the

present applicant is appearing in FIR and the allegation against him is that at the time of incident he allegedly fired upon Inayatullah, who received fire arm injury on his right leg hip joint has been declared as Ghayr Jaifah Mutalahimah (337-Fiii) PPC by the medical officer, but the punishment of the same is not more than three years, thus it appears that the case of the applicant does not fall within the ambit of prohibitory clause of section 497 Cr.P.C, even otherwise, besides the injury attributed to the applicant is on non-vital part of the injured. Further, co-accused Ghulamo almost on same allegation has been granted bail by the trial court vide order dated 14.6.2017, therefore, this applicant is also entitled for same relief. Reliance is placed in a case of Pir Bakhsh vs the State reported in 2010 MLD (Lahore) 220, which reads as under:-

***(a) Criminal Procedure Code (V of 1898)---***

***“---S. 497---Bail, grant of---Rule of consistency---Rule of consistency was always take into consideration by the courts, because a person could not be denied for the grant of bail whose case was at par with an accused who had already been released on bail---Courts had to give equal treatment to accused having one and the same role in the same case.”***

6. In addition to this during investigation the present applicant was released under section 497 Cr.P.C by the police, but the Magistrate was not inclined to accept such report of the police and directed the I.O of the case to submit the challan under Section 173 Cr.P.C. Under the circumstances, it reveals that it is the case of two versions one submitted by the complainant and another by I.O of the case, therefore, the whole episode as narrated above requires further probe.

7. Beholding the above, at this stage the applicant has made out the case for further inquiry, therefore he is admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/= (fifty thousands) and P.R bond in the like amount to the satisfaction of trial Court.

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

**JUDGE**

Ahmed/Pa