

**HIGH COURT OF SINDH, CIRCUIT COURT AT
HYDERABAD**

Cr. Bail Application No.S-714 of 2020
Cr. Bail Application No.S-354 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicants:	Through Mr. Ayaz Hussain Tunio advocate
State:	Through Ms. Sobia Bhatti, APG
Complainant:	None present
Date of hearing:	17.08.2020
Date of Decision:	17.08.2020

ORDER

ABDUL MAALIK GADDI, J:- By this common order I intend to decide both captioned bail applications, as they arise out of same crime and incident.

2. Through these bail applications, applicants/accused seek pre-arrest bail in crime No.71 of 2020 registered with Police Station Husri/Pabban Hyderabad u/s 353, 188, 147, 149, 337-A(i) & 337-A(iii) PPC, as their pre-arrest bails were dismissed by the learned Trial Court, vide orders dated 16.04.2020 & 24.07.2020, respectively.

3. The allegation against the applicants/accused, as per FIR, is that on 09.04.2020 due to exchange of some hot words they caused injuries on the nose of complainant ASI Eshwar Bhatia, who was on patrolling duty alongwith his subordinate staff on the same date and directed the applicants/accused to close down the shops due to lock down.

4. It is stated by the learned counsel for the applicants/accused that all the sections applied in the FIR as well as challan sheet are either bailable or their punishment do not fall within the prohibitory clause of section 497 Cr.P.C; that the final medical certificate has been challenged by the applicants before the Medical Board and result whereof is still awaited; that case has been challaned and the present applicants/accused are no more required for further investigation; that only applicants/accused of Cr. Bail Application No.S-354 of 2020 are nominated in the FIR, whereas the applicants/accused of Cr. Bail Application No.S-714 of 2020 are not nominated in the FIR and their names have been shown in challan on further statement of complainant

recorded u/s 162 Cr.P.C, therefore, under these circumstances the case of applicants/accused requires further inquiry.

5. As against this learned APG has opposed these bail applications on the ground that applicants have caused injuries on the nose of complainant when he was performing his official duty.

6. Heard the learned counsel for parties and perused the case papers, so available before me.

7. It is noted that case has been challaned and present applicants are no more required for further investigation. It is also noted that only applicants of Cr. Bail Application No.S-354 of 2020 are nominated in FIR, whereas, the applicants of Cr. Bail Application No.S-714 of 2020 are not nominated in FIR and their names have been given by the complainant in his further statement recorded u/s 162 Cr.P.C after considerable delay, therefore, on this ground false implication of applicants of Cr. Bail Application No.S-714 of 2020 with due deliberation cannot be ruled out. Moreover, as mentioned, all the sections applied in FIR as well as challan sheet are either bailable or their punishment do not fall within the prohibitory clause of section 497 Cr.P.C. So far as the injuries caused on the nose of complainant are concerned, it is stated by learned counsel for the applicants that the said injuries have already been challenged by them before the Medical Board and report whereof is still awaited. Besides, injuries caused to the complainant appear to be simple in nature and Doctor has not described them as dangerous or detrimental to the life of the complainant. Under these circumstances sending the applicants behind the bar would not serve any purpose. There is nothing on record to show that present applicants are previously convicted. It is also noted that the alleged incident has been occurred on spur of movement on the ground of closing of shops due to lock down. All these points involved in these bail applications require further inquiry, which can be taken place at trial.

8. In view of the above, both these bail applications are allowed. Consequently, interim bail granted to the applicants vide orders dated 21.04.2020 and 29.07.2020 are hereby confirmed on the same terms and conditions with directions to applicants/accused to appear before the Trial Court and to face the trial.

9. Needless to mention here that observations made hereinabove are tentative in nature and they shall not affect the merits of the case before learned Trial Court.

10. Before parting with the order I would like to make it clear that in case, during proceedings before the learned Trial Court, applicants misuse the concession of bail, then learned Trial Court would be competent to cancel the same without making any reference to this Court.

Both these bail applications stand disposed of in above terms.

JUDGE

Sajjad Ali Jessar