

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

1. Cr. B.A. No.S- 358 of 2020

2. Cr. B.A. No.S- 530 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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- 1. For orders on office objection.
- 2. For hearing of main case.

24.08.2020

Mr. Muhammad Sachal R. Awan, Advocate for Applicants.

Applicants in both captioned bail applications are present on interim pre-arrest bail.

Ms. Rameshan Oad, A.P.G.

Complainant Rehmatullah present in person.
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ABDUL MAALIK GADDI, J.-By this common order I intend to dispose of both captioned bail applications together as they arise out of one and same incident as well as F.I.R. viz Crime No.12 of 2020, registered at Police Station Diplo, under sections 147, 148, 149, 504, 506, 337-A(i) PPC.

2. It is noted that all applicants in both aforementioned bail applications are on interim pre-arrest bail granted to them by this Court vide orders dated 22.04.2020 and 12.06.2020, respectively and today the bail applications are fixed for conformation or otherwise.

3. As per F.I.R, the allegation against the Applicants are that on 06.04.2020 at about 04:00 p.m. the incident took place between both parties on the issue of cutting of “Devi” Jungle (Bushes) and during such incident P.W Saleh received hatchet injury on his head. This injury was attributed to applicant / accused Muhammad Hassan S/o Ali Muhammad.

4. Learned counsel for the applicants / accused mainly argued that the F.I.R. is false and fabricated and the applicants are innocent and have falsely been implicated in this case due to dispute on cutting of “Devi” jungle, hence malafide on the part of complainant is apparent; that F.I.R. has been lodged

with a delay of one day and 08 hours without any plausible explanation though complainant appeared at police station Diplo on same date of alleged incident but at that time he did not lodge report and only obtained letter for treatment which creates doubt in prosecution story; that injury attributed to applicant Muhammad Hassan though allegedly on non-vital part but the said injury has not been described by Medico-Legal Officer as dangerous or detrimental to the life of injured/P.W; however, according to him the punishment for the alleged offence(s) do not fall within prohibitory clause of section 497 Cr.P.C; that challan of the case has been submitted and applicants are no more required for investigation purpose. Under these circumstances, he prays for confirmation of interim pre-arrest bail already granted to the applicants.

5. Learned A.P.G duly assisted by the complainant have recorded their no objection if the interim pre-arrest bail already granted to the applicants is confirmed.

6. Arguments heard and record perused.

7. It is an admitted fact that case has been challaned and present applicants are no more required for investigation purpose. It is noted that during the alleged incident one P.W Saleh received head injury though it is on vital part of the body but this injury has not been declared by the Medico-Legal Officer either dangerous or detrimental to the life of the injured. Injured Saleh is also present in Court and on Court query, submits that at the moment he is feeling himself comfortable. Even otherwise, all the sections mentioned in the F.I.R. are either bailable or do not fall within the prohibitory clause of section 497 Cr.P.C; therefore, under these circumstances grant of bail in such a situation is a rule and its refusal is an exception. There is no exceptional ground available on record to withhold the bail to applicants. Learned A.P.G as well as the complainant have already recorded their no objection if interim pre-arrest bail already granted to the applicants is confirmed on same terms

and conditions. Under these circumstances, I feel no hesitation to allow these applications; resultantly, the interim pre-arrest bail already granted to the applicants vide orders dated 22.04.2020 (Cr. Bail Application No.S-358 of 2020) and 12.06.2020 (Cr. Bail Application No.S-530 of 2020) respectively, are hereby confirmed on same terms and conditions. However, the trial Court is directed to proceed with the case expeditiously and decide the same preferably within a period of 30 working days from the receipt of this order and shall ensure that no un-necessary adjournment is granted to either party.

8. It is made clear that during trial any of the applicant misuses the concession of pre-arrest bail, the trial Court would be competent to take necessary action against the delinquent applicant without making any reference to this Court, in accordance with law.

9. Needless to mention that the observations made hereinabove are tentative in nature and the trial Court shall not be influenced upon by any of them while proceeding with and deciding the case on merits.

10. Bail applications stand disposed of alongwith pending applicant(s).

JUDGE

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