

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. B.A. No.S- 466 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.

07.09.2020

Mr. Ayaz Hussain Tunio, Advocate for the applicants, alongwith the applicants on interim pre-arrest bail.

Ms. Rameshan Oad, A.P.G.
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ABDUL MAALIK GADDI, J.-Through this bail application, the applicants seek pre-arrest bail in Crime No.128 of 2020, registered at Police Station Tando Muhammad Khan, under sections 324, 353, 147, 148, 149 PPC.

2. The applicants in present application are on interim pre-arrest bail granted to them by this Court vide order dated 19.05.2020 and today the bail application is fixed for conformation or otherwise.

3. As per F.I.R, the allegation against the Applicants is that on 30.04.2020, a police party headed by Inspector Nisar Ahmed Bhatti, Incharge CIA, Jamshoro went to arrest wanted accused namely Sadam Magsi and Basheer Magsi in Crime No.115/2020, under section 9(c) of CNS Act, Police Station Kotri and when reached at the otaq of said wanted accused, accused persons present in said Otaq, started firing upon police party; however nobody from them received any single injury. Thereafter, present F.I.R. was registered.

4. Learned counsel for the applicants submits that they are innocent; that the F.I.R. is false and fabricated and they have been falsely implicated in this case by police; that at the time of incident the applicants were allegedly available in the Otaq of wanted accused empty handed and no overt act has been attributed to any of them; therefore, their false implication in this case cannot be ruled; that admittedly not a single scratch or injury has been caused to any of the member of police party or their vehicle; therefore, involvement of

the present applicants requires further inquiry. Under these circumstances, he prays for confirmation of interim pre-arrest bail already granted to the applicants.

5. Learned A.P.G in view the facts and circumstances of the cases has extended her no objection to the confirmation of interim pre-arrest bail of the applicants.

6. Arguments heard and record perused.

7. It is noted that case has been challaned and the applicants are no more required for investigation purpose. On perusal of record it appears that present accused / applicants were only available in the Otaq of wanted accused Sadam Magsi empty handed and no overt act has been attributed against them; whereas other co-accused who have been granted bail by the trial Court are stated to have made direct firing upon police party. It is also noted that no body from the police party has received any scratch or injury. It also appears that main allegation of torning off the shirt of HC Muhammad Khan and breaking its button is against co-accused Salahuddin, who as per record is still absconder; whereas as per F.I.R, present applicants were only available in the Otaq of wanted accused empty handed, therefore, their involvement in the alleged incident would require further inquiry; that the present applicants have not been attributed any over act in the commission of alleged offence, whereas the co-accused who have allegedly made direct firing upon police party, have been granted bail by the trial Court therefore, case of the present applicants is on better footing to that of said co-accused; that there is nothing on record that present applicants are previous convict.

8. In view of above, I feel no hesitation to allow this application; resultantly, the interim pre-arrest bail earlier granted to the applicants, vide orders dated 19.05.2020 is 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 60 working days from the

receipt of this order and shall ensure that no un-necessary adjournment is granted to either party.

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

10. 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.

11. Bail application stands disposed of alongwith pending applicant(s).

JUDGE

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