

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

Cr.Bail.Appl.No.S- 627 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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13.10.2020.

Mr. Hemandas Sanghani, Advocate for applicant.

Ms. Sobia Bhatti, A.P.G. for State.

Mr. Zeeshan Ali Memon, Advocate for complainant alongwith complainant.

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ORDER

ZULFIQAR AHMAD KHAN, J: Through this bail application, applicant Ahmed Khan seeks his admission on post-arrest bail in Crime No.51/2020 P.S Tando Bago for offence u/s 324, 504, 114, 35 PPC. The bail plea raised by applicant before the learned 2nd Additional Sessions Judge, Badin was turned down by means of order dated 01.07.2020.

2. The crux of the prosecution case is that on 30.05.2020 at 0800 hours present applicant alongwith other co-accused duly armed with hatchet abused the complainant and on his instigation to commit the murder of complainant, other accused caused hatchet injuries to the complainant on his head and left hand so also given beatings and then fled away. The motive of the incident as alleged in the FIR is a dispute between the parties over agricultural land.

3. Learned counsel for the applicant submits that role against the applicant is of instigation; that there is admitted dispute over the agricultural land therefore, false implication of applicant cannot be ruled out; that no independent witness has been cited to act as mashir, that all Sections applied in FIR are bailable except Section 324 PPC which it yet to be determined at the time of trial; lastly it is contended that the case against applicant requires further inquiry.

4. On the other hand, learned A.P.G. appearing for the State alongwith counsel for complainant opposed the bail application and submitted that applicant has been assigned specific role of instigation and he participated in the commission of offence. It is further contended that on his instigation other co-accused caused hatchet injuries to the complainant on his head and left arm. Lastly, they have prayed for dismissal of bail application.

5. I have heard the learned counsel for the parties and perused the material available on record with their kind assistance.

6. Admittedly, there is enmity over some agricultural land between the parties. The perusal of the record reveals that applicant was allegedly armed with hatchet at the time of incident but there is no allegation that he used the same either at the complainant or any of the prosecution witnesses. The question regarding vicarious liability could be determined by the trial Court after recording evidence of the prosecution witnesses. Apart from other Sections, police has also applied Section 324 PPC which is also yet to be determined at the time of trial and in the bail matters only tentative assessment is to be made and deeper appreciation is to be avoided.

7. In view of the above circumstances, the applicant/accused has made-out a case for further inquiry as contemplated under section 497(2), Cr.P.C. and he is granted post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and PR bond in the like amount to the satisfaction of learned trial Court.

The observations made herein above are tentative in nature and will not prejudice the case of either party at the time.

JUDGE

Tufail