

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Amjad Ali Sahito**

Criminal Bail Application No.899 of 2020

Applicants : i) Rao Aamir Jameel S/o  
Muhammad Jameel Khan  
ii) Shujat Ali S/o Sardar Ali  
Through Mr. Bashir Hussain Shah  
Advocate

Complainant : Muhammad Akram Khan S/o Ghulam  
Hussain  
Through Mr. Asadullah Memon,  
Advocate

Respondent : The State  
Through Mr. Talib Ali Memon  
Assistant Prosecutor General, Sindh  
alongwith ASIP Gul Bahar

Date of hearing : 15.09.2020

Date of order : 15.09.2020

## **ORDER**

**AMJAD ALI SAHITO, J** – Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.156/2020 registered under Sections 324/147/148/149 /447/511/427/ 506/337F-i/337A-I PPC at PS Malir Cant., Karachi, after their bail plea has been declined by learned 2<sup>nd</sup> Addl. Sessions Judge, Malir vide order dated 22.06.2020.

2. Applicant/accused No.1 namely Rao Aamir Jameel is called absent. Per learned counsel, applicant/accused Rao Aamir Jameel has been arrested by the police; hence the bail application to the extent of applicant/accused Rao Aamir Jameel has become infructuous, which is dismissed on being infructuous and interim pre-arrest bail granted to him vide order dated 22.06.2020 is hereby recalled.

3. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

4. Learned counsel for the applicant/accused contends that the applicant/accused is innocent and has falsely been implicated in this case; that there is counter version that applicant's side lodged the FIR being Crime No.157/2020 in which direct allegation was assigned to complainant Muhammad Akram Khan that he has fired a bullet upon one Yar Muhammad due to which he became injured; that the injuries of the complainant in this crime does not fall within the prohibitory clause; that the applicant/accused is attending the Court regularly and is no more required for further investigation. He lastly requests for confirmation of bail.

5. On the other hand, learned counsel for the complainant as well as learned APG have vehemently opposed for confirmation of bail on the ground that first the FIR was lodged by the complainant and thereafter in order to make a counter version, the applicant's side also lodged the FIR being Crime No.157/2020, which is nothing as no such incident was taken incident. Further, in the said FIR nowhere it is written that the complainant had also received the bullet injury.

6. I have heard the learned counsel for the parties and have gone through the material available on record. Admittedly, the role assigned against the applicant/accused is general in nature, no specific injury has been attributed to him. Per learned APG, the injury received by Malik Muhammad Akram is declared by the Medical Officer as Shajjah-i-Khafifah punishable under section 337-A(i) which is bailable and punishable upto 2 years. The second injured received the injury does not fall within the prohibitory clause of section 497 Cr.P.C.

7. Further, the applicant's side has also lodged an FIR being Crime No.157/2020 in which it was claimed by the applicant's side that complainant Muhammad Akram Khan fired a pistol shot, which hit to his brother namely Yar Muhammad on his face. It shows that during the occurrence,

both the parties had received injuries but they did not mention injuries in their respective FIRs. Both the FIRs are cross version of each other, which are yet to be determined at the time of trial who was aggressor and who was aggressed upon, when evidence will be recorded. Reliance is placed in the case of **Sadiq Ali v. The State (2020 SCMR 679)**; wherein the Hon'ble Supreme Court of Pakistan has held that:

*“.....4. Learned counsel appearing on behalf of State also confirms that a cross version in this regard was also recorded and Challan in both cases i.e. FIR and cross version has been submitted. In these circumstances, it is for the trial Court to determine as to who was the aggressor and who was aggressed upon, of course, after recording evidence of the parties. As for now, case against the petitioners calls for further enquiry falling within the ambit of section 497(2), Code of Criminal Procedure.”*

8. Further, learned counsel for the applicant/accused has pleaded malafide on the part of complainant that when brother of Complainant Yar Muhammad received firearm injury on his face and by using the influence, the complainant has lodged the instant FIR with ulterior motive in order to make the case of counter blast/version, otherwise the applicant/accused is innocent and the injuries received by the complainant party are self-suffered

9. At bail stage, only a tentative assessment is to be made and deeper appreciation is not permissible. Learned counsel for the applicant/accused has succeeded to make out a case for confirmation of interim pre-arrest bail to the applicant/accused in terms of subsection (2) of Section 497 Cr.P.C. Therefore, the instant bail application is **allowed**. The interim pre-arrest bail granted to applicant/accused Shujat Ali vide order dated 29.06.2020 is hereby confirmed on same terms and conditions. Applicant/accused is directed to attend the trial.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants/accused on merits.

JUDGE