

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.667 of 2021

Date *Order with signature of Judge*

For hearing of Bail Application.

25.08.2021

Mr. Irfan Gul Memon, Advocate along with Applicant (on bail).
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Abrar Hussain seeks his admission on pre-arrest bail in Crime No.328/2020 of Police Station Sujawal, under Section 324/353/147/148/149/504 PPC. The bail plea preferred by the applicant before first forum was declined by means of order dated 08.02.2021, hence this bail application.

Per FIR role attributed to the applicant is that he allegedly caused revolver butt blow to PC Qurban Ali, aims to commit his Qatl-i-Amd, which landed on his head; however, co-accused Aachar Machhi (since died) had allegedly caused iron bar blow to PC Qurban Ali on his right arm, therefore, instant FIR was got registered by one ASI Ali Nawaz Sethar of P.S Sujawal on behalf of the State.

Learned counsel for the applicant submits that applicant allegedly caused weapon butt blow to injured PC Qurban Ali; however, if he had any intention to commit his Qatl-i-Amd, he would have caused fire arm injury or at least repeated injury. He next submits that all co-accused are on bail and case has been challaned which is now pending for trial before the Court of

Additional Sessions Judge, Sujawal. He further submits that injury allegedly sustained by injured carries maximum punishment upto five years, therefore, does not exceed limits of prohibitory clause of section 497 Cr.P.C; hence, prays for confirmation of bail.

On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that applicant has been assigned specific roll of causing butt blow injury to PW/PC Qurban Ali, which landed on his head; hence, he does not deserve any leniency in shape of pre-arrest bail. She; however, could not controvert the fact that accused had not repeated injury nor fired from his revolver as alleged.

Heard arguments and perused record. The motive behind the incident is that police was deployed over amount distribution amongst poor ladies of the area where applicant wanted to get stand his ladies in the row on priority basis, which conversation converted into the harsh words between police as well as accused, therefore, he allegedly caused revolver butt blow to PC Qurban Ali. Apparently, the applicant being poor fellow had gone to place of incident along with his ladies/women folk aims to collect certain amount and in such eventuality holding of a weapon by him does not appeal to a prudent mind. If the applicant as alleged was having such weapon and the police deployed over there was also large in number and were less with automatic weapons yet did not apprehend him nor secured alleged weapon from him. Such long bullock story does not seem to be based upon truth, therefore, cannot be believed in toto. As far as allegation of committing Qatl-i-Amd is concerned, neither the applicant caused any fire arm injury to injured as well as other police members deployed over there nor had repeated the same; hence, application of section 324 PPC is yet to be determined by the trial Court at the time of trial after recording evidence of the parties. The injury allegedly sustained by injured has been declared by MLO as Shujjah-e-Mudihah, which carries maximum punishment upto five years; hence, does not exceed limits of prohibitory clause of section 497 Cr.P.C.

In the circumstances and in view of dicta laid down by Hon'ble Supreme Court of Pakistan in case of *KHALEEL AHMED SOOMRO & OTHERS Versus The STATE (PLD 2017 SC 730)*, case against applicant requires further inquiry within the meaning of sub-section 2 to section 497

Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Abrar Hussain son of Khadim Hussain Pathan** on 22.04.2021 is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE

Zulfiqar/P.A