

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Crl. Bail Application No. 1235 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

17.12.2018

Applicant present in person.
Ms. Seema Zaidi, DPG for the State.

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Omar Sial, J.: Mansoor Ahmed, the applicant, has sought pre-arrest bail in crime number 254 of 2018 registered under sections 324, 148, 149, 504 and 337-H(ii) P.P.C. at the Moro police station.

2. Brief facts of the case are that Imran Aziz registered the aforementioned F.I.R. in which he recorded that his elder brother Asif Ali Shaikh is married to the applicant's sister. The applicant would often tell the complainant party that a plot of land be transferred in the name of his sister. One day the applicant came to the house of the complainant armed with a pistol. He was accompanied by his brothers Shahabuddin (armed with a shotgun), Sohail Ahmed (armed with a repeater), Maqsood Ahmed (armed with a shot gun) and Asif Ali (armed with a pistol). After threatening the complainant party that they will now kill them as the complainant's had not vacated the property, the applicant fired at Khudabaksh which hit him on his armpit and Asif shot at Khudabaksh which hit him on his calf. The accused then went away.

3. I have heard the applicant in person and the learned D.P.G. The learned counsel for the complainant preferred to stay absent. My observations are as follows.

4. It appears that the accused in this case had registered an F.I.R. bearing number 146 of 2018 under sections 324, 147, 148, 149, 504 and 337-F(i) P.P.C for the same incident but with a different version. The current F.I.R. was perhaps lodged as a counter blast to the earlier one. It remains to be seen who was the aggressor and who was the aggressed.

5. The medical report, which has not been put on record, but which is available with the learned D.P.G, is vague and sketchy and does not appear to reveal the description of the injuries that Khuda Baksh has sustained in order to determine whether the injury has been sustained on a vital part of the body or not and what is its nature.

6. I also find it rather baffling that if the accused party had come to kill the complainant, as has been alleged by the complainant, what was there preventing them from doing so keeping in view how heavily armed they had come for this purpose. The practice of F.I.R writers to include complete dialogues by accused in which their motive and intention is first loudly proclaimed and then the offence is inflicted seems nothing more than the desire and attempt by the writer to fortify the case. Inevitably, a number of cases are weakened in the exercise of this practice.

7. Due to the self claimed enmity and dispute between the parties and the fact that the accused party has lodged a prior F.I.R against the complainant party, throwing the net wide by the complainant so as to implicate all the brothers in the crime cannot be conclusively ruled out at this stage. The case of the applicant is one of further inquiry.

8. Both the applicant and the complainant are practicing lawyers who appear to have a family dispute at the heart of this quarrel. In my opinion, it is against the stature of a lawyer to indulge in such acts and I am saddened to see the case and counter case filed by them against each other. Here, I would like to observe with great disappointment that in spite of the judgment of the Hon'ble Supreme Court of Pakistan that two F.I.Rs for the same incident not be lodged, the police station of Moro appears to have done just that.

9. Above are the reasons for the short order dated 12-12-2018 in terms of which the interim pre-arrest bail granted to the applicant on 10-9-2018 was confirmed on the same terms and conditions.

10. Let a copy of this order be provided to the learned Advocate General, Sindh for onward transmission to the Moro police station so that the said police station may note the observation regarding the registration of two F.I.Rs for the same offence.

JUDGE