

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-657 of 2022

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

1. For orders on office objections.
2. For hearing of main case.

12.09.2022.

Mr. Mian Taj Muhammad Keerio, Advocate alongwith applicant on ad-interim pre-arrest bail.

Mr. Aziz Ahmed Laghari, Advocate a/w complainant.

Mr. Shahzado Saleem Nahiyoon, Additional P.G.

O R D E R

MUHAMMAD IQBAL KALHORO, J- Over a matrimonial dispute, applicant and co-accused duly armed with weapons reached in front of shop of the complainant, related to them, in village Moulvi Habibullah Khaskheli. And after abusing complainant party, they fired from their weapons injuring Habibullah and Muhammad Waseem. PW Habibullah received injuries from firing made by co-accused Muneer Ahmed, who is in jail, while PW Muhammad Waseem is stated to have received firearm injury from repeater held by applicant.

2. Learned Defence Counsel has argued that applicant is innocent and has been falsely implicated in this case; there is delay in registration of FIR which has not been explained. Infact, Muhammad Waseem received injuries from the fire made by co-accused Muneer Ahmed which is confirmed from recovery of only one cartridge from the place of incident and the positive lab report regarding matching profile of the repeater recovered from him with the empty. In the memo of injuries, only seven injuries are displayed to have been sustained by Muhammad Waseem, but in medical certificate ten injures are shown, out of which seven injuries are minor andailable, whereas three injuries fall u/s. 337-F(iii) PPC, though non-ailable but punishable for only three years. Co-accused Ibrahim and Abdul Razzak named in FIR have been granted bail and keeping in view the above facts and circumstances, the role of consistency appears to be attracted in the case of applicant. Learned Counsel in support of his submissions has

relied upon the case KHALIL AHMED and others v. The STATE (PLD 2017 Supreme Court 730).

3. On the other hand, learned Counsel for the complainant and Additional P.G have opposed bail citing specific role of the applicant.

4. I have considered submissions of the parties and perused material available on record and the case law cited in defence. In FIR registered on the same day, the applicant has been assigned a role of firing at PW Muhammad Waseem who has received as many as ten injuries as per medical certificate, which is the relevant document to verify the number and nature of injuries and not the memo of injuries, which only documents injuries apparent to the Investigating Officer at the time of spot-investigation. Injured Habibullah subsequently succumbed to injuries and the case has been challaned, among others, u/s. 302 PPC. The point raised in defence that deceased and injured received injuries from a single fire made by co-accused Muneer Ahmed requires deeper appreciation of evidence, as prima facie, there is no material to support such hypothesis. The relief of bail granted to the co-accused is not of any help to the applicant either in that those co-accused are shown to be simply present at the spot without taking any active part in the incident, whereas the applicant, shown armed with the repeater, is stated to have fired at PW whose injuries have been verified by the Medico Legal Certificate and are further supported by 161 Cr.P.C statements of the witnesses. In view of such prima facie evidence, applicant does not seem to be entitled to the extraordinary concession of pre-arrest bail, available to an accused who has been implicated in the case falsely on account of motives base and ulterior, which is not the case here. I, therefore, find the applicant not entitled to the relief of pre-arrest bail. Accordingly, this application is dismissed and interim pre-arrest bail already granted to the applicant vide order dated 20.06.2022 is hereby recalled.

5. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE

