

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S- 1135 of 2022

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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05.12.2022.

Mr. Mashooque Ali Bhurgri, Advocate for applicants alongwith applicants (on bail).

Mr. Muhammad Noonari, D.P.G for State.

Complainant inspite of notice has chosen to remain absent.

ORDER

Muhammad Saleem Jessar, J.- Through instant application, applicants Ali Nawaz, Munawar Ali and Yousif alias Dada seek their admission on pre-arrest bail in Crime No.66 of 2021 registered at P.S Pangrio under Sections 302, 324, 114, 147, 148, 149, 504, 337-A(i), 337-F(i), 337-H(2) PPC.

2. Learned counsel for the applicants submits that the role attributed to applicant Ali Nawaz is that he allegedly caused hatchet blow blunt side to complainant which landed on his head and said injury has been declared by Medicolegal Officer falling u/s 337-A(ii) PPC which carries maximum punishment upto 05 years whereas applicant Munawar Ali has been assigned role that he caused multiple injuries with lathi to injured PW Ismail which are on his non-vital parts of the body. Besides applicant Yousif alias Dada has been assigned no role except ineffective firing. He next submits that on identical role the co-accused Ayaz Ali and others have been granted post arrest bail by this Court on 07.02.2022 in Criminal Bail Application No.S-1125 of 2021 and co-accused Asghar Ali and others have also been admitted to post arrest bail by trial Court

through order dated 17.12.2021. In support of his contentions, learned counsel has placed on record the copies of said orders, which are taken on record. He next submits that rule of consistency is applied in this case, therefore, applicants may also be extended constant treatment. He further submits that after furnishing surety before this Court, the applicants have also joined the trial proceedings on 05.10.2022. The progress report submitted by the trial Court / 1st Additional Sessions Judge, MCTC, Badin dated 12.11.2022 affirms the contentions advanced by learned counsel for the applicants.

3. In the view of above, learned D.P.G appearing for State does not oppose the bail application.

4. Admittedly, the main roll of causing firearm injury to deceased is assigned to co-accused Muhammad Hassan who is in custody whereas the applicants have been assigned different role of causing injuries to different injured PWs. The role attributed to the applicants have not been described by the Medicolegal Officer to be grievous or detrimental to their lives. Besides the punishment provided by the law for the injuries allegedly sustained by injured PWs does not exceed the limits of prohibitory clause of Section 497 Cr.P.C and the applicants as per prosecution case have also surrendered before the trial Court and have not misused the concession extended to them. In the circumstances and in view of dictum laid down by Honourable Supreme Court in the case of KHALIL AHMED SOOMRO and others v. The STATE (PLD 2017 Supreme Court 730) and MUHAMMAD TANVEER v. The STATE and another (PLD 2017 Supreme Court 733), the case against applicants requires further inquiry as envisaged under sub-section (2) to Section 497 Cr.P.C. Accordingly, instant bail application is allowed and the

interim pre-arrest bail already granted to applicants on 27.10.2022 is hereby confirmed on same terms and conditions. However, applicants are directed to continue their appearance before the trial Court, without fail.

JUDGE

Tufail