

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application Nos.1788, 1053, 1907, 611 & 1878 of 2022

---

**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

---

For hearing of bail application.

**20-03-2023**

Mr. Zulfiqar Ali Shaikh, advocate a/w applicant in Crl. B.A.Nos.1878 & 611 of 2022.

Mr. Zaheer Ahmed Ujjan, advocate a/w applicant in Crl. B.A.Nos.1788, 1907 & 1053 of 2022.

Mr. Nizakat Ali Mirani, Advocate for complainant.

Ms. Robina Qadir, Additional P.G.

=====

**Omar Sial, J:** A background to the case is that the aforementioned F.I.R. was registered on 20.03.2022 on the complaint of one Nadir Ali who reported an offence that had occurred on 17.03.2022. He reported that while walking back home when he was intercepted by Ali Hassan Gabol, Kareem Bux Golo, Lakhmeer Golo and one other person who he could not identify at that time. The accused persons attempted to put Nadir on their motorcycle but because of the noise he made and the emergence of some other persons Nadir knew, decided to leave but not before Lakhmeer had fired a shot which hit Nadir on his shoulder. Ali Hassan also made an ineffective fire. F.I.R. No. 122 of 2022 was registered under sections 324 and 34 P.P.C. at the Gadap police station.

2. Both, Lakhmeer and Ali Hassan applied for pre-arrest bail in the court of the learned 4<sup>th</sup> Additional Sessions Judge, Malir, Karachi, however, the applications were dismissed vide order dated 28.03.2022. Both applicants then approached this court for pre-arrest bail. Ali Hassan filed Criminal Bail Application 611 of 2022 on 30.03.2022 whereas Lakhmeer filed Criminal Bail Application No. 1053 of 2022. Ali Hassan's application was dismissed for non-prosecution on 19.09.2022. He then filed Criminal Bail Application No. 1878 of 2022 in which he gave his clarification for his previous non-absence, the clarification was accepted and he was admitted to interim pre-

arrest bail. The history of Lakhmeer is even more chequered. His first application was dismissed on 16.08.2022 for non-prosecution. He then filed Criminal Bail Application No. 1788 of 2022 which was dismissed for non-prosecution on 22.09.2022. He then filed Criminal Bail Application No. 1907 of 2022. He was admitted to interim pre-arrest bail as it appears that the Judge then hearing the application accepted his explanation for his previous non-appearance.

3. I have heard the counsels for the applicants and the complainant as well as the learned Addl.P.G. My observations and findings are as follows.

4. No role except presence and ineffective firing has been assigned to Ali Hassan. Lakhmeer is said to have fired at and injured Nadir Ali. Upon a tentative assessment there appears to be doubt as to whether Nadir Ali has even been injured in the manner he says he was. This doubt rises from the fact that the applicants have earlier challenged the genuineness of the medical certificate that Nadir Ali provided to show that he was injured. A Special Medical Board was set up at the Civil Hospital, Karachi to examine Nadir Ali so that the Board could determine the veracity of Nadir Ali's claim. The Special Medical Board vide its report dated 15.10.2022 informed the SHO of the Gadap police station that the Board had convened on 3 different occasions but neither did Nadir Ali appear before it nor did Dr. Usman Hashmi, the doctor who ostensibly issued the disputed Certificate. The Certificate was therefore suspended until the appearance of the injured and the doctor. Even 5 months later, neither Nadir Ali nor the doctor appeared before the Board. The learned counsel for the complainant has been unable to offer any explanation for the continued absence of Nadir Ali before the Board. It is the conduct of the complainant himself that has created doubt in his allegations.

5. Doubt created due to the absence of Nadir Ali is further amplified when one takes into account the history of what appears to be a long standing friction between the parties that had seen F.I.R.'s and cases lodged by each of the sides against the other. Earlier, F.I.R.'s filed by the

complainant side against the applicant also appear to have been perhaps disposed of in B Class. This submission of the counsel for the applicant has not been controverted by the counsel for the complainant. Malafide certainly cannot be conclusively ruled out at this stage.

6. The position as it stands at the moment is that Nadir Ali claims to have been shot and injured but has no valid medical certificate that would at least prima facie show that he was shot, to back up his allegations. The applicants' case becomes one of further inquiry. The interim pre-arrest bails granted to the applicants is therefore confirmed at the same terms and conditions. They are however directed to fully co-operate with the investigating officer failing which the State will be at liberty to move the requisite application for cancellation of bail before the learned trial court, who itself shall be empowered to cancel the bails if it is of the view that the applicants are not co-operating with the investigation or they are responsible for any delay in the trial.

JUDGE