

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Bail Application No. S-48 of 2023

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on office objection at flag-A
2. For hearing of Bail Application

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13.02.2023

Mr. Ali Akbar Narejo, Advocate for the applicant.
Mr. Syed Sardar Ali Shah, Additional P.G for the State.

ORDER

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ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier criminal post-arrest bail application bearing No. 2787 of 2022 by the learned Additional Sessions Judge-IV, Khairpur, vide order dated 05.01.2023, applicant/accused Manthar Ali s/o Wazeer Ali seeks same concession through instant criminal bail application in Crime No. 326 of 2022, registered at Police Station "B"-Section, Khairpur under sections 324, 353, 398, 401, P.P.C.

2. As per FIR, on 13.12.2022 at 1810 hrs., the applicant and co-accused, namely, Abdul Rasheed and Sanaullah, duly armed with deadly weapons, were standing at Pir Mangio Link Road with an intention to commit a crime, who on seeing police party coming made straight fire upon them with intention to commit their *Qatil-e-Amd*. The police party arrested the applicant at the spot and recovered one unlicensed 30-bore T.T. pistol along with magazine from the possession of the applicant and secured 10 empties of T.T. pistol from accused side; 8 of SMG and 5 of G-3 from place of police party, while co-accused succeeded to make their escape good; for that, ASI Ghulam Muhammad Maitlo lodged the aforesaid FIR on behalf of the State.

3. After hearing the learned counsel for the applicant, learned A.P.G. and perusing the material available on record with their assistance, it reflects that

the applicant is confined in judicial custody since day of his arrest and his custody is no more required by the police for further investigation. It is an admitted position that there is no previous record of the applicant indulging in any sort of offence or criminal activity. Offence under section 353, P.P.C. is bailable. So far the applicability of section 324, P.P.C. is concerned, it is an admitted position that no one sustained injuries in the alleged exchange of fire between accused and police party. Even no scratch has been received by any of the members of the police or accused party. Similarly, no bullet mark has been found on the police mobile.

4. Although the alleged offence under section 324, P.P.C. attracts the prohibitory clause of section 497(1) of Cr. P.C. but on the basis of tentative assessment of the evidence in the hand of prosecution, mentioned-above, alone renders the applicability of section 324, P.P.C. a matter of further inquiry in terms of sub-section (2) of Section 497 Cr. P.C. Accordingly, the applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- (*Rupees One Lac Only*) and P.R. Bond in the like amount to the satisfaction of the Trial Court.

5. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the Trial Court while deciding the case of the applicant/accused on merits. In case applicant/accused in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

JUDGE

Ahmed