

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.D-09 of 2023

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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18.04.2023

Syed Talib Shah advocate for applicants.
Mr. Siraj Ahmed Bijarani Assistant PG.

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MUHAMMAD IQBAL KALHORO, J.- Inspector Muhammad Aslam SHO PS Thatta during patrolling on 24.10.2022 received spy information about co-accused Shahnawaz Brohi running a factory for manufacturing “Mava Gutka” in his village Ghulam Muhammad Brohi. Acting on such information he along with his staff and rangers officials raided the said premises and arrested three accused persons, the applicants, and recovered, in huge quantity, ingredients used in manufacturing “Mava Gutka” including betel nuts, plastic bags, tobacco etc. However, two persons available there including Shahnawaz Brohi made their escape good. He then prepared necessary documents. When he and police staff after completion of formalities were taking the arrested accused along with the recovered articles to Police Station, they were attacked by at least eight accused duly named in FIR in an effort to get the arrested accused released. Some police officials in the course of which received injuries, windscreen and side window glasses of police mobile were smashed. Hence, apart from main case regarding recovery of prohibited articles used in manufacturing of “Mava Gutka” Crime No.266/2022, present FIR No.267/2022 u/s 324, 353, 427, 224, 225, 337-A(i), 337-A(ii), 337-A(iii), 337-L(ii), 504, 147, 148, 149 PPC r/w 6/7 Anti-Terrorism Act, 1997 was registered against applicants and other accused.

2. Learned defense counsel has argued that in main case bearing Crime No.266/2022 applicants have been acquitted by the trial court viz. 1st Civil Judge & Judicial Magistrate Thatta u/s 249-A CrPC vide order dated 21.02.2023 and that order has not been challenged by the prosecution; that the applicants’ role in the present case is yet to be determined because at the time the police were attacked they were in custody and that attack was launched by the different accused. His arguments have been opposed by learned Assistant Prosecutor General. Regarding any criminal record of the applicants, it has been stated that apart from these two cases applicants is not involved in any other criminal case.

3. We have considered submissions of parties and perused material available on record. Applicability of section 324 PPC in the case of applicants is a question of further inquiry as at the time when co-accused assaulted police, they were in their custody and have prima facie no role in that episode. The question therefore that whether applicants had any role in cajoling the co-accused to attack the police for his release is yet to be determined. In the main case of recovery of articles used in manufacturing of "Mava Gutka" applicants have already been acquitted by the trial court as stated above, and it appears that prosecution has not challenged the said order up till now. In the circumstances, we are of the view that the applicants have been able to make out a case for grant of bail. Accordingly, this application is allowed and the applicants are granted bail subject to furnishing a solvent surety in the sum of Rs.100,000/- (one lac) each and PR Bond in the same amount to be executed by him before the trial court to its satisfaction.

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

JUDGE
JUDGE