

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 148 of 2023

Cr. Bail App. No. S – 194 of 2023

Date of hearing	Order with signature of Judge
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For hearing of bail application

1. For order on office objections at Flag-A
2. For hearing of bail application

20.10.2023

Mr. Israr Ahmed Shah assisted by Syed Naimat Ali Shah, Advocate for applicants along with applicant Tajawar Ali. Syed Jaffar Ali Shah assisted by Mr. Saeed Ahmed Bhatt, Advocate for complainant along with complainant. Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – There is enmity between the parties over agricultural land; hence, they were annoyed with each other. On 07.08.2022, when complainant along with his father Hubdar, uncle Moharram, cousins Muhammad Hassan and Imran Ali was present on his land near Mothparja within jurisdiction of Police Station Hingorja, co-accused Luqman, Mumtaz, Mobeen, Nabi Bakhsh and Nadeem, duly armed with weapons accosted them. No sooner they came than co-accused Luqman called out complainant party and fired with Kalashnikov at father of complainant namely Hubdar, co-accused Mumtaz fired at uncle of complainant namely Moharram, whereas other accused caused butt and hatchet blows to PWs Muhammad Hassan and Imran Ali and co-accused Nabi Bakhsh caused *lathi* blows to complainant. When people, attracted, intervened, the accused party went away.

2. FIR was registered on next date on 08.08.2022 against aforesaid accused and two unknown accused. After 12 days of incident viz. 19.08.2022, complainant appeared at Police Station

and nominated applicants to be those unknown persons whose names he had come to know through some source. Applicants applied for pre-arrest bail before the trial Court, but the same was rejected. Consequently, applicant Abdul Ghaffar was arrested, whereas applicant Tajawar Ali succeeded in escaping. He finally filed this Criminal Bail Application No. S-148 of 2023 for pre-arrest bail, whereas applicant Abdul Ghaffar has filed Criminal Bail Application No. S-194 of 2023 for post-arrest bail.

3. Learned defence Counsel has argued that applicant Abdul Ghaffar is brother of co-accused Nabi Bakhsh and applicant Tajawar Ali is brother of co-accused Mobeen, who are named in FIR, and are co-villagers of complainant. They are known to him from childhood and it is even otherwise strange that he has given names of two brothers in the FIR and the other two brothers in the further statement after 12 days claiming that they were known to him. Hence, the case requires further enquiry and their false implication cannot be ruled out.

4. Learned Counsel for complainant submits that directions may be given to the trial Court to proceed with the matter and has opposed the bail applications. Whereas learned Additional Prosecutor General, in view of above facts and circumstances, has conceded.

5. I have considered submissions of parties and of a view that the case against the applicants is one of further enquiry as although both the applicants are co-villagers of complainant and real brothers of nominated accused Nabi Bakhsh and Mobeen, but he did not give their names in the FIR, and only after 12 days, came up with a further statement nominating them as accused on the basis of some source, which he has not disclosed. There is even

otherwise no specific role attributed to them. The Challan has already been submitted, hence, they are not required for further investigation, and their false implication in view of delay in further statement cannot be ruled out. Therefore, applicants have been able to make out a case for bail.

6. For the above reasons, these bail applications are **allowed**, and ad-interim pre-arrest bail earlier granted to applicant Tajawar Ali, vide order dated 07.03.2023, is hereby **confirmed** on the same terms and conditions, whereas applicant Abdul Ghaffar is **admitted** to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- (Rupees one lac) to the satisfaction of the trial Court.

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

The bails applications stand **disposed of** in the above terms. Office to place a signed copy of this order in the captioned connected matter.

Abdul Basit

J U D G E