

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
Crl. Bail Appln. No.S-483 of 2014.  
Crl. Bail Appln. No.S514 of 2014.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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FOR HEARING.

26.1.2015

Mr. Asif Ali Abdul Razak Soomro, advocate for applicants in Crl. Bail Appln. No.S-514 of 2014.

Mr. Shahbaz Ali Brohi, advocate for applicants in Cr. Bail Appln. No.S-483 of 2014.

Mr. Faiz Muhammad Larik, advocate for complainant in Crl. Bail Appln. No.S-483 of 2014.

Mr. Raja Riaz Akhtar, advocate for complainant in Crl. Bail Appln. No.S-514 of 2014.

Mr. Khadim Hussain Khooharo, A.P.G.

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By this single order, I will dispose of aforesaid bail applications moved on behalf of the applicants / accused. Applicants Ghulam Nabi, Soomar, Hakim and Mohsin seek pre arrest bail, whereas bail after arrest application has been moved by the applicants/accused Muhammad Punhal, Javed, Naveed, Waheed and Sadam Hussain.

Brief facts of the prosecution case as disclosed in the FIR are that on 20.10.2014, Nasarullah lodged his FIR stating therein that incident took place on 20.10.2014 at 07:30 p.m near his house. It is alleged that at time of incident electric bulbs were on, accused persons namely Ghulam Nabi son of unknown armed with repeater, Punhal son of unknown, Javed son of Ghulam Nabi, Zohaib son of Punhal, Mohsin alias Sono son of Ghulam Nabi armed with T.T. Pistols, Soomar son of Chanesar having double four rifle, Hakim son of Chanesar armed with T.T. Pistols, Waheed son of Ghulam Nabi armed with double four rifle, Naveed son of Ghulam Nabi armed with gun, Sadam Hussain son of Ghulam Nabi armed with T.T pistol, Irfan son of Dado armed with T.T Pistol along with twenty unidentified person having their faces opened came there. It is further alleged in the FIR that accused Ghulam Nabi abused to the complainant and said



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that complainant had misbehaved with his son Mohsin alias Sono and he would take revenge. Thereafter it is alleged that accused Ghulam Nabi, Punhal, Javed, Zohaib, Mohsin alias Sono, Soomar, Hakim, Waheed, Naveed, Sadam Hussain and Irfan with intention to kill fired upon complainant party and fire hit to complainant and his nephew Irfan Ali and fell down. Cries were raised which attracted the persons of neighboring area. Thereafter accused ran away and complainant saw that he had received injuries at his stomach and his nephew Irfan Ali had also received injury at his stomach. Thereafter, complainant took his nephew and went to the Police Station from where he was referred to Civil Hospital Jacobabad for his further treatment. The FIR of the incident was recorded by In-charge Police Station, Civil Lines vide Crime No.55 of 2014 for offences under sections 324, 337-H(2), 147, 148, 504, PPC. After usual investigation challan has been submitted against accused persons under the above referred sections.

Bail before arrest application on behalf of the applicants/accused was moved before learned Sessions Judge, Jacobabad, the same was dismissed vide order dated 01.11.2014. Applicants Muhammad Punhal, Javed, Naveed, Waheed and Sadam Hussain filed bail after arrest, the same was also rejected by learned Ist Additional Sessions Judge Jacobabad vide order dated 26.11.2014. Thereafter, applicants/accused have approached this Court.

Messrs Asif Ali Abdul Razak Soomro and Shahbaz Ali Brohi, learned advocates for applicants/accused mainly contended that there are general allegations against the applicants/accused. No firearm injury has been specifically attributed to any of the accused. It is further contended that there was enmity between the parties. Resultantly, thirty one accused persons have been involved in this case falsely. It has also been contended that the accused Javed Ahmed had lodged FIR against complainant party at Police Station City, Jacobabad vide Crime No.122 of 2014 for offences under sections 324, 337-H(2), 147, 148, 504, PPC. It is submitted that in the counter case bail has been granted to the accused persons. It is further submitted that after investigation, challan has been submitted against the accused and vicarious liability is yet to be determined by the trial Court. Regarding nature of injuries sustained by the complainant and P.Ws, it is submitted that the injuries are Jurh Ghayr Jaifah Mutulahimah which are punishable up to three years. On the point of *mala fide*, it is submitted that complainant has lodged FIR against accused

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for political reasons and there was already enmity between the parties. In support of his contentions, learned advocates for the applicants have relied upon the cases of Jaffar and others v. The State 1980 SCMR 784, Muhammad Amin and others v. The State 1987 P.Cr.L.J 1404, Syed Amanullah Shah v. The State and another PLD 1996 Supreme Court 241, Gul Muhammad alias Gul Hassan and another v. The State 2003 YLR 2710 and Bashir Ahmed and others v. The State 2005 YLR 1440.

Mr. Khadim Hussain Khoohro, learned A.P.G assisted by learned advocate for complainant argued that the applicants / accused caused firearm injuries to the complainant and P.Ws. It is further submitted that this is not a case of counter version and the alleged offence falls within the prohibitory clause of section 497(1), Cr.P.C. He has opposed the bail applications. Reliance is placed on the case of Muhammad Khan v. The State 2005 P.Cr.L.J 1797.

After hearing the learned counsel for the parties, I have carefully perused the relevant record as well as medical certificates.

I am of the considered view that the applicants/accused are entitled for grant of bail for the reasons that there are general allegations against applicants/accused. No injury has been specifically attributed to any of the accused. Moreover, the injuries sustained by the complainant and P.Ws have been declared as Jurh Ghayr Jaifah Mutulahimah. It is argued by A.P.G that this is not the case of counter version but it has been admitted that FIR bearing Crime No.122 of 2014 has been lodged by one of the accused persons against complainant party in which bail has been granted by learned Sessions Judge, Jacobabad. Prima facie, vicarious liability of the accused persons is yet to be determined at the trial. Serious *mala fide* on the part of the complainant has also been alleged. Case has already been challaned. In these circumstances, while respectfully relying upon the cases cited by the learned advocate for the applicants/accused case against applicants/accused requires further enquiry. Resultantly, interim pre arrest bail already granted to the applicants namely Ghulam Nabi, Soomar, Hakim Ali and Mohsin is hereby confirmed and concession of bail is extended to the applicants / accused namely Muhammad Punhal, Javed, Naveed, Waheed and Sadam Hussain subject to furnishing their solvent surety in the sum of Rs.50,000/- each and P.R bond in the like amount to the satisfaction of the trial Court.



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Needless to mention here that the observations made hereinabove are tentative in nature and the trial Court shall not be influenced while deciding the case of the applicants on merits.

Judge 26/11