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ORDER-SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA  
Crl. Bail Appln. No. S- 454 of 2015.

Date of hearing

Order with signature of Judge

03.11.2015.

1. For orders on office objections.
2. For hearing.

Mr. Ghulam Sarwar Abdullah Soomro, Advocate for applicant.  
Mr. Munir Ahmed Abbasi, D.D.P.P.

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**Zafar Ahmed Rajput, J.-** After rejection of his earlier bail application vide Order dated 15.8.2015, passed by the learned 1<sup>st</sup> Additional Sessions Judge, Mehar, District Dadu, in Crl. Bail Appln. No. 1223/2015, the applicant/ accused Wali Muhammad son of Nabi Bux Mazari has moved towards this Court seeking post arrest bail in Crime No.183/2015, registered under Sections 324, 353 P.P.C, at P.S Mehar, District Dadu.

2. Briefly stated facts of the prosecution case as narrated in the F.I.R, are that on 25.7.2015, at 0300 hours ASI Barkat Ali Chandio lodged report on behalf of the State, stating therein that, on fateful day he alongwith his subordinate staff was on patrolling and during checking at Ghaari bypass Chowk they noticed three persons coming on motorcycle who were identified to be Wali Muhammad (present applicant), 2. Razoo alias Ali Raza and 3. Tarique , who were signaled to stop, but did not stop the motorcycle, however while taking out pistols from their folds they started firing upon police party; which the police party retaliated and one of the culprits received bullet and surrendered himself while two of them made their escape good; the police arrested injured accused Wali Muhammad Mazari alongwith pistol under mashirnama; they also taken the motorcycle in their possession and ultimately the apprehended accused and property were brought at police station, where F.I.R to the above effect was lodged on behalf of the State.

*Rmt.*  
03/11/2015

3. I have heard learned counsel for the applicant and learned D.D.P.P appearing for the State and perused the material available on record.

4. The learned counsel for the applicant has mainly contended that the applicant/ accused is innocent and has falsely been implicated in this case by the police. He has further contended that no such incident of police encounter has ever taken place, but in-fact the applicant/ accused was taken away by police from his house alongwith his motorcycle and after making a fire shot on calf of his leg the instant case was managed by foisting a pistol upon him by showing recovery of motorcycle, which belongs to the applicant and he possess its documents; that this is case of ineffective firing, as none from police party had received any injury or even scratch and that it is surprising that during face to face firing which continued for five minutes from very close range none from police party received injury nor even their vehicle was hit by any bullet, as such case of applicant calls for further inquiry and he is entitled for concession of bail.

5. The learned D.D.P.P while opposing grant of bail to accused has argued that the applicant is involved in a case of assault to police officials in the execution of their public duty with such intention and knowledge that, if he by that act caused Qatl, he would be guilty of Qatl-e-amd. He further contended that the complainant has no ill-will against the applicant to implicate him in this case.

6. The police has submitted the challan against the applicant, therefore, he is not required by police for further investigation. The applicant is in judicial custody for about three months. Offence under Section 353 P.P.C isailable. So far as 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

*[Handwritten signature]*

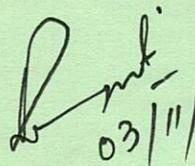
between accused and police party from the side of police. Even no scratch has been received by any member of police party. Similarly, no bullet mark has been found on the motorcycle of the accused or on the police mobile; even no empty has been recovered from the scene of occurrence.

7. Although the offence under Section 324 P.P.C attracts the prohibitory clause of Section 497 (1) 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.

8. In view of above, the applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (One hundred thousand rupees) and P.R bond in the like amount to the satisfaction of trial Court.

9. 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 applicant on merits, if the applicant 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.

Bail application stands disposed of.

  
03/11/2015  
Judge