

9

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 265 of 2013.

Date of hearing	Order with signature of Judge
19.07.2013.	

Mr. Ghulam Ali J. Rind, Advocate for applicant.
Mr. Imtiaz Ahmed Shahani, State Counsel.

~~~~~

Through instant bail application, applicant Lashkar Khan seeks post arrest bail in Crime No.67/2013, P.S Sadar, Jacobabad, for offences punishable under Sections 337-A (ii), 148, 149 P.P.C.

2. Precisely, relevant facts are that, applicant armed with T.T pistol alongwith co-accused persons caused injury to Nadeem Ali. Such F.I.R was lodged. After usual investigation the applicant was sent up for trial.

3. Counsel for the applicant, *inter-alia*, contends that, this is a case of sudden fight between two groups of students; in counter case all the accused are on bail; offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; case has been challaned, thus applicant is no more required. Learned counsel has relied upon case of *Tariq Bashir v. The State (PLD 1995 S.C 34)*.

4. On the other hand, learned State Counsel concedes for grant of bail on the ground that instant case does not fall within prohibitory clause of Section 497 Cr.P.C., thus applicant may be granted bail.

5. Heard learned counsel and perused the record.

6. After careful consideration of relevant record, it is not disputed that this is a case of sudden fight and counter case bearing Crime No.76/2013, under Sections 506/2, 337-A (ii), 337-F (i), 147, 148 P.P.C, was lodged by the applicant party; the accused in that case are on bail. Moreover, instant case does not fall within prohibitory clause of Section 497 Cr.P.C. and in case of *Tariq Bashir (supra)* the Hon'ble Supreme Court has held that, *in cases: punishment does not fall within prohibitory clause of Section 497 Cr.P.C., bail is right of accused and refusal is an exception.* Further reveals

9



that applicant was declined bail by the trial Court on the ground that matter was under investigation and that was pre-mature stage. Per learned counsel now the case has been challaned and pending for adjudication of guilt.

7. In view of the above, since the applicant's case is not falling within prohibitory clause of Section 497 Cr.P.C. and by the guideline given in the above referred dictum, applicant is admitted to post arrest bail in the sum of Rs.30,000/- (Thirty thousands) and P.R bond in the like amount to the satisfaction of trial Court.

  
Judge

Ansari/\*