

## ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO

Cr. Bail Appln. No. S-533 of 2019

Date	Order with signature of Judge
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1. For order on office objection.
2. For hearing of bail application.

Mr. Abid Hussain Abro, advocate for the applicant.  
 Mr. Zafar Ali Malgani, advocate for the complainant.  
 Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Date of hearing: 06-03-2020

Date of order: 06-03-2020

**ORDER**

**ZAFAR AHMED RAJPUT, J.-** Through instant criminal bail application, the applicant/accused Mumtaz s/o Allah Rakhiyo Lund seeks post arrest bail in Crime No.22/2019, under Sections 324,34, 337-F(v) P.P.C, registered at Police Station Jaggan @ Hamayoon. His earlier application for grant of post arrest bail bearing No.1097 of 2019, was heard and dismissed by the learned Sessions Judge, shikapur vide order dated 10.10.2019.

2. Briefly stated the facts of the case are that on 07.5.2019, at 1000 hours complainant Mst. Hanifan lodged the aforementioned F.I.R alleging therein that there is dispute between her and accused Mumtaz. On 6.5.2019, she, her son Manthar Lund, daughter-in-law Mst. Azizan, wife of Muhammad Alam Lund and Mst. Rasheedan wife of Gulzar Lund were available in their house when at 08:00 PM accused Mumtaz, Inayatullah, having Kalashnikov, rifles and one unknown person having TT pistol came



on motorcycle. Accused Mumtaz asked them that as they did not withdraw their case, he could not spare them and thereafter he fired from his Kalashnikov at Manthar with intention to kill him who sustained injury on shoulder and fell down thereafter complainant party raises cries on that accused persons went away.

3. Learned counsel for the applicant/accused has mainly contended that the accused is innocent and has falsely implicated in this case by the complainant with malice and ulterior motives due to enmity; that all the PWs are interest witnesses being related to complainant; that there is delay of about 11 hours for that no explanation has been furnished by the complainant; that the alleged incident has taken place in night time at about 09:00 pm hence the mistaken identity of the accused cannot be ruled out under the circumstances of the case; that during course of investigation, Investigating Officer added section 337-F(v) PPC which is punishable for five years; hence alleged offence does not fall within the prohibitory clause of section 497 Cr.PC; thus the applicant is entitled to the grant of bail.

4. Learned counsel for the complainant vehemently opposed the grant of bail on the ground that accused has been nominated in the F.I.R by the complainant he was identified by the complainant and other eye witnesses in the bulb light hence there arises no question of mistaken identity of the accused; that another son of the complainant has already been killed by the accused party and such criminal case was pending adjudication before the trial Court in which Deedar, Izhar and Hidayatullah are facing trial who are brother-in-law and nephew of the applicant/accused and it was just to pressurize the complainant party the



alleged offence was committed by the accused in order to compel complainant to withdraw from the case of murder of his son; that the ocular account is fully supported with the medical evidence; since, it was attempt to murder the son of the complainant, the offence under section 324 PPC falls within the prohibitory clause of section 497 Cr.P.C.

5. Learned APG while adopting the arguments advanced by the learned counsel for the complainant has added that the alleged injury is sustained bullet injury on his left arm which is near to heart which is a vital part of his body; he has further contended that on the application of accused party Medical Superintendent, CMCH, Larkana constituted Special Medical Board to examine injured Manthar and even the Special Medical board vide its report dated 4.3.2020 verified the report of the Medico Legal Officer by affirming the injury sustained by the said injured.

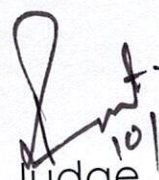
6. I have considered the arguments advanced by the learned counsel for the applicant/accused, complainant and learned APG as well as perused the material available on record.

7. It appears that the accused has been nominated in the FIR by name for causing gunshot to son of the complainant namely Manthar Ali. The incident has taken place in the house of the complainant and the complainant, injured and other two ladies witnesses have identified the accused on the light of bulb. The medical report issued by the Medico Legal Officer, was verified by the Special Medical Board consists upon 1) Associate Professor of Forensic Medicines, 2) Associate Professor of Medicine, 3) Professor of Radiology, 4) Professor of Orthopedics, 5) Additional Medical Superintendent and 6) Principal and Professor Surgery, Chandka Medical College Hospital, Larkana (Chairman) have also



declared the medical report of the Medico Legal Officer, as correct. It may be observed that the accused made gun fire at the left shoulder of the injured near to neck and heart; hence an attempt with intention to commit his murder cannot be ruled out. Prima facie, sufficient material is available with the prosecution to connect the accused with the commission of alleged offence; as such, this criminal bail application is dismissed with direction to trial court to proceed with the case expeditiously and conclude the trial preferably within the period of three months hereof.

Above are the reasons of my short order dated 06.3.2020, whereby the instant criminal bail application was dismissed.

  
10/03/2020  
Judge

S.Ashfaq