

4

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH,**  
**CIRCUIT COURT, LARKANA**

Criminal Bail Applications No. S-191 & 342 of 2017

DATE

ORDER WITH SIGNATURE OF JUDGE

Mr. Safdar Ali Ghouri, Advocate for the applicants  
Mr. Muhammad Afzal Jagirani, Advocate for the complainant  
Mr. Syed Sardar Ali Shah, D.P.G for the State

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Date of Hearing : 18.12.2017  
Date of Order : 18.12.2017  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Since both above-mentioned bail applications have arisen out of same crime/offence and heard together, the same are disposed of with this common order.

2. Through Criminal Bail Application No. S-191 of 2017 applicants, namely, Sajid Ali Khokhar, Manthar Ali Khokhar Ss/o. Inayatullah, Abdul Rehman Khokhar S/o. Sadoro Khan and Bago Khan @ Baggan Khokhar S/o. Muhammad Sachal, while through Criminal Bail Application No. S-342 of 2017 applicant, namely, Muhammad Usman S/o. Ghulam Qadir seek pre-arrest bail in Crime No. 13/2017, registered at P.S. Dokri, under sections 337-A(v) (i), 337-F(i), 504, 148, 149, P.P.C. Their earlier applications for the grant of pre-arrest bail bearing Nos. 580 & 854 of 2017 were heard and dismissed by the learned VI-Additional Sessions Judge, Larkana vide orders, dated 13.05.2017 and 04.08.2017, respectively. The applicants were admitted to ad-interim pre arrest bail by this Court, vide orders dated 19.05.2017 and 08.08.2017, respectively, and now they seek confirmation of their pre-arrest bail.

3. Briefly stated, the facts of the case are that on 27.03.2017 at 05:45 p.m., complainant Mir Muhammad appeared at police station and obtained letter for medical treatment of his injured son Allah Ditto, which was issued to him under Entry No. 9. Thereafter, on 29.04.2017, complainant brought final medico-legal report of his aforesaid son certifying the nature of injuries sustained by him as *Shajjah-i-hashimah*, *Shajjah-i-khafifah* and *Jurh Ghayr Jaifah Damiyah* and then he lodged the aforesaid F.I.R., alleging therein that his house is situated adjacent to the houses of accused Muhammad Usman Khokhar and others and there existed a dispute between both the parties over boundary wall of his house. It is further alleged that on 27.03.2017, the complainant along with his sons, namely, Allah Ditto, Muhammad Essa and Khamiso were standing outside his house in the street at 05:00 p.m. when accused Muhammad Usman with danda, Manthar and Sajid, both sons of Inayat, Khalid and Abdul Rehman, both sons of Gul Sher, and Baggan S/o. Sachal with lathies came there and accused Muhammad Usman caused danda blow to Allah Ditto on his head; accused Manthar caused lathi blows to Allah Ditto on his back and other parts of his body; accused Khalid and Abdul Rehman caused lathi blows to Allah Ditto on his head, face and other parts of body, while; accused Sajid and Baggan caused lathi blows to Allah Ditto on his head and other parts of body and; thereafter, on their cries people from vicinity came running there, then accused persons ran away towards their houses.

4. Learned counsel for the applicants/accused has contended that the applicants are innocent and have falsely been implicated in this case by the complainant due to enmity; that there is delay 32 days in lodging of F.I.R., for which no plausible explanation has been furnished by the complainant; therefore, consultation, deliberation and falsification of the facts cannot be ruled out; that all the sections applied in the F.I.R. are bailable except section 337-A (v), P.P.C. which was wrongly applied in F.I.R. but latter on corrected in the challan

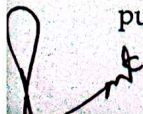
as section 337-A (iii) P.P.C., and the same has been attributed to accused Muhammad Usman; however, its true nature shall be determined by the trial Court after full-fledged trial in the light of medical record as the said injury was not observed by the medial officer in interim medico-legal report; that accused Muhammad Usman is <sup>an</sup> educationist and he is serving as High School teacher; that all the male members of the one and same family have been implicated by the complainant with mala-fide intention and ulterior motive; hence, sufficient grounds are available in the case for further enquiry entitling the accused for grant of pre-arrest bail.

5. On the other hand, learned counsel for the complainant has vehemently opposed this application on the ground that the accused persons have been implicated in the case with the specific role and they have caused the injuries to the son of complainant with common intention; as such, they are not entitled for the concession of bail.

6. The learned D.P.G. appearing for the State, has recorded his no objection for the grant of bail to accused persons, except accused Muhammad Usman, on the ground that as per F.I.R. he caused danda blow to injured on his head, which injury has been declared by the MLO in final MLR as *Shajjah-i-hashimah*, punishable for ten years under section 337-A (iii) P.P.C.

7. I have considered the arguments advanced by the learned counsel for the applicant, complainant and learned DPG and also perused the material available on record.

8. So far injuries allegedly sustained by the injured Allah Ditto are concerned, the M.L.O. has declared the same in his final medico-legal report as *Shajjah-i-hashimah*, *Shajjah-i-khafifah* and *Jurh Ghayr Jaifah Damiyah*, which are punishable under sec. 337-A(iii), 337-A(i) and 337-F(i), P.P.C. for imprisonment



93

up to ten, two and one year as *ta'zir*, respectively. As per F.I.R. injury *Shajjah-i-hashimah* has been caused by accused Muhammad Usman, while two other injuries, which are bailable under the schedule of offences, have allegedly been caused by the other accused. It appears that the alleged incident took place on 27.03.2017 but the complainant did not have a preference to lodge an F.I.R. immediately, even the provisional medical certificate was issued by MLO on the same day. Admittedly, prosecution has no material/record if the injured ever remained hospitalized after receiving alleged injuries. It further appears that final Medico-Legal Report of injured Allah Ditto was issued on 07.04.2017, but the complainant even thereafter did not lodge F.I.R., till 29.04.2017, hence, there is delay of 32 days in lodging of F.I.R. from the date of incident and 22 days from the date of receiving final MLR. Under the circumstances the elements of consultation, deliberation, malice and ulterior motives in lodging of F.I.R. cannot be ruled out, especially when enmity between the parties is an admitted fact. Apparently, a wide net has been thrown to involve maximum persons from the family of accused side; hence, the case of the applicants/accused squarely falls within the ambit of further enquiry as envisaged under sub-section (2) of Section 497 Cr. P.C.

9. For the foregoing facts and reasons, ad-interim pre arrest bail granted to accused, vide orders dated 19.05.2017 and 08.08.2017, is hereby confirmed on the same terms and conditions.

10. 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 the applicants/accused on merit. In case the applicants/accused in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel their bail after issuing them the requisite notice.

