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

Criminal Bail Application No. S-72 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicants	: (i) Sadoro Alias Khursheed S/o. Fateh Muhammad and (ii) Allah Bux S/o. Sadoro Alias Khursheed, through Mr. Rashid Mustafa Solangi, Advocate
Respondent	: The State, through Syed Sardar Ali Shah, DPG.
Complainant	: Ali Gul S/o. Muhammad Urs, through Mr. Ghulam Muhammad Barejo, Advocates -----
Date of Hearing	: 04.12.2017
Date of Order	: 04.12.2017 -----

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicants Sadoro Alias Khursheed S/o. Fateh Muhammad and Allah Bux S/o. Sadoro Alias Khursheed, above-named seek post arrest bail in Crime No. 51/2016, registered at P.S. Qubo Saeed Khan, under Section 324, 337-A(ii), 337-F(ii)/504, 148, 149, P.P.C. Their earlier application for grant of post-arrest bail bearing No. 40 of 2016 was heard and dismissed by the learned Additional Sessions Judge, Shahdad Kot, vide order dated 05.12.2016.

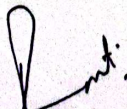
2. Briefly stated, the facts of the case are that on 03.10.2016 at 2300 hours complainant Ali Gul S/o. Muhammad Urs lodged the aforesaid F.I.R., alleging therein that on 02.10.2016, at about 1300 hours at the land of Deedar Mastoi, the present applicants/accused duly armed with rifle and pistol, co-accused Saleh duly armed with Kalashnikov like rifle and one un-identified accused caused firearms injuries to his son, namely, Suhno over using of passage with intention to kill him, while co-accused persons, namely, Muhammad Ameen, Moula Bux (brother and son of applicant Sadoro, respectively) and Sahib caused hatchet

blow on the head, right upper hand and elbow of Suhno, who fell down and started bleeding. Thereafter, on their cries which attracted many villagers, the accused party ran away.

3. Mr. Rashid Mustafa Solangi, learned counsel for the applicants/accused has contended that the applicants are innocent and have falsely been implicated in this case by the complainant party due to enmity; that there is delay of thirty-four hours in lodging F.I.R., therefore, consultation, deliberation and false implication of applicants cannot be ruled out; that the injuries allegedly received by the injured are neither fatal nor dangerous or on vital part of his body, as such, alleged action does not carry the ingredients of section 324 of P.P.C; that the medico-legal report does not suggest the injuries as narrated in the F.I.R; that all the male members of the one and same family have been implicated by the complainant with mala-fide intention and ulterior motive; that the applicants are behind the bar for last thirteen months and their trial has not been concluded; that three co-accused persons, namely, Saleh, Sahib and Muhammad Ameen, who were nominated in F.I.R. with specific role, have been let out by police for want of evidence; hence, sufficient grounds are available in the case for further enquiry.

4. On the other hand, Mr. Ghulam Muhammad Barejo, learned counsel for the complainant, has vehemently opposed this application on the ground that accused persons with intention to commit murder made straight fires at the son of the complainant that hit him on his both legs below knees; as such, they are not entitled for the concession of bail.

5. The learned DPG appearing for the State, while adopting the arguments of learned counsel for the complainant, has also opposed the grant of bail to applicants.



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

7. It appears that the alleged incident took place on 02.10.2016 at 1300 hrs. while the F.I.R. was lodged on 03.10.2016 at 2300 hrs, with delay of 34 hrs., for which complainant has furnished the explanation that he was busy in treatment of his son, that may be plausible explanation but element of consultation and deliberation cannot be ruled out looking to the fact that all the male members of the one and same family have been implicated in this case. The applicants/accused are in custody since 16.10.2016 and their trial has yet not been concluded by the trial Court. Enmity between the parties is also an admitted fact. Injuries allegedly sustained by the injured P.W have been declared by the M.L.O. as Shajjah-i-hashimah, Ghayr-jaifah hashimah and Ghayr-jaifah damiyah, which are punishable under Section 337-A(iii), 337-F(v) and 337-A(i) , P.P.C. for imprisonment up to ten, five and one year as *ta'zir* , , respectively. As per MLR injuries Shajjah-i-hashimah and Ghayr-jaifah hashimah have been caused by sharp cutting and hard blunt substances, which injuries as per the facts of F.I.R. cannot be attributed to present accused. While two injuries allegedly caused by firearms have been declared as Ghayr-jaifah damiyah which, being punishable for one year under section 337-A(i), P.P.C., is bailable under the schedule of offences. Had it been intention of applicants/accused to kill the son of complainant then there would have been shooting at vital parts of his body, which was not done; thus, it is yet to be seen if the applicants/accused had any intention to kill the injured PW, as such, application of section 324 P.P.C. could only be determined at trial; 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.



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8. Under the circumstances, applicants/accused are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs. 2,00,000/- (Rupees Two Lacs only) and P.R. bond in the like amount to the satisfaction of the 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 the applicants/accused on merits. 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.



JUDGE