

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

Criminal Bail Application No.S-1195 of 2015

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing

**24.11.2017.**

Mr. Abdul Aziz Memon, Advocate for applicant  
alongwith applicant.

Mr. Aziz Ahmed Laghari, Advocate for complainant.

Syed Meeral Shah A.P.G. for the State.

Applicant, who is accused in Crime No.33 of 2014 of P.S Gharibabad, under section 324, 337-F(iii), 506 (ii), 427, 34, P.P.C. is seeking pre-arrest bail.

Complainant Amanat Ali got the instant F.I.R. registered on 21.05.2014 at 1030 hours alleging that on the day of incident viz. 21.05.2014 he and his friend Mashooque Ali Chandio were returning after visiting their lands in Mehran Car and when at about 0845 hours they reached Majeed Factory, Umerkot road, they saw three accused on motorcycle namely Asghar Pali, Azhar alias Majeed Pali armed with pistols and Sarwar Pali empty handed who seeing them fired straightly on them. The fire shot of applicant Asghar Pali after crossing the windscreen of the car hit on the chest of Mashooque Ali who was sitting on the front seat of the car. The complainant alighted from the car but meanwhile three accused while riding the motorcycle fled away. Complainant after due course and after leaving the injured in hospital appeared at Police Station and got the present F.I.R. registered.

Learned Counsel for the applicant has argued that the applicant has been implicated due to a previous enmity; that the injury sustained by the victim falls under section 337-F(iii), which is punishable for three years and does not fall within the prohibitory clause under

section 497(1), Cr.P.C; that the story of the F.I.R. does not appeal to the prudent mind; that on the very day the information about the incident was communicated through 15 message but in the said information none of the accused was nominated by the complainant; that in the trial the charge has been framed and complainant and injured witness have been examined; that the applicant after grant of ad-interim pre-arrest bail is regularly attending the trial court. Learned counsel in support of his arguments has relied upon the case law reported as 2007 P.Cr.L.J 513.

On the other hand, complainant's Counsel has opposed grant of bail to the applicant on the ground that the applicant is nominated in the F.I.R. with specific role of causing firearm injury to the victim; that the applicant is not entitled to the extraordinary relief of pre-arrest bail as he has not been able to show any mala fide on the part of the complainant to implicate him. Learned counsel in support of his contentions has relied upon the case law reported as 2004 P.Cr.L.J 921, 2004 P.Cr.L.J 1087 and 2007 P.Cr.L.J 1139.

Learned Additional Prosecutor General Sindh has also opposed grant of bail to the applicant.

I have considered the submissions of the parties and perused the material available on record. The story of F.I.R. reflects that three accused have been nominated, out of whom Asghar Pali and Azhar Pali are alleged to be armed with pistols and made straight fires on the complainant and his friend who were sitting in the car. However, applicant Asghar Pali's fire is alleged to have hit the injured. In a normal course, when two persons are straightly firing, it would be difficult for a person subject of such firing to follow the trajectory of the bullet fired by one of them and conclusively state the place where the bullet would land. Therefore, the assertion of the complainant that it was fire shot of the applicant, which hit the injured, requires further inquiry. In the trial, the complainant and injured have been examined and the trial, therefore, is likely to be concluded in near future. The injury as per medical certificate sustained by the victim falls within

the purview of section 337-F(iii) PPC and is punishable for 03 years, which does not fall within the prohibitory clause under section 497(1), Cr.P.C. The applicant was granted ad-interim pre-arrest bail by this court in the year 2015 and it has been informed that he is continuously appearing before the trial court and has never misused the concession of bail.

In the circumstances, when the trial is already in progress, following the dicta laid down by the Honourable Supreme Court in the case reported in 2011 SCMR 1332, the ad-interim bail of the applicant is confirmed on the same terms and conditions as evident in the order dated 07.12.2015, whereby he was granted ad-interim bail. However, the trial court is directed to expedite the trial and conclude it within a period of three (3) months hereof and submit the compliance report. It is made clear that the accused shall not be granted any adjournment on any ground unless it is tacitly cogent and appears to be necessary to the trial court. With these observations, bail application stands disposed of.

The observations made hereinabove are tentative in nature and would not prejudice the case of either party at the trial.

JUDGE