

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Criminal Bail Appln. No. S-691 of 2023

Applicant	Rahib s/o Wahab Junejo, Through Mr. Atta Hussain Qadri, Advocate
Complainant	Mst. Jamal Khan (Called absent)
The State	Mr. Aitbar Ali Bullo, D.P.G for the State
Date of hearing:	02-05-2024
Date of Order:	02-05-2024

SHAMSUDDIN ABBASI, J.- Through instant criminal bail application the applicant/accused Rahib s/o Wahab Junejo seeks post-arrest bail in Crime No. 03/2023, registered at Police Station Gaheja, for the offence U/S 324, 114, 337-H(ii), 148, 149, 452 P.P.C, after rejection of his bail plea by the learned trial court vide order dated 25.08.2023.

2. The facts of the prosecution case are that applicant/accused Rahib Junejo along with 4 other co-accused duly armed with deadly weapons entered into the house of complainant and co-accused Sajid caused fire shot at injured, which hit on his back, whereas applicant caused gunshot injury to injured Khalid, which hit on his right side neck, thereafter the complainant brought the injured at Police Station and sought letter for treatment and after treatment he went to Police Station and lodged F.I.R to the above incident.

3. Learned counsel for the applicant/accused has contended that applicant/accused is innocent and he has been falsely implicated in this case due to enmity; that specific role for causing fire arm injury of K.K was assigned to co-accused Sajid Junejo, which hit to injured Khalid on his back; that no recovery has been effected from the possession of applicant; that injury attributed to applicant has been declared as Shujah-i-Khafifah

punishable U/S 337-A(i) Cr.P.C, which is bailable, which created doubt in the prosecution story, hence his case requires further inquiry U/S 497(2) Cr.P.C.

4. On the last date of hearing, learned counsel for the complainant was in attendance and matter was adjourned in his presence. Today neither the complainant is in attendance nor his counsel.

5. Learned Deputy Prosecutor General has vehemently opposed for grant of bail on the ground that applicant is nominated in the F.I.R with specific role of causing fire arm injury to the injured on his neck. However, he has stated that injury attributed to the applicant is bailable and no any incriminating material has been recovered from his possession.

6. Heard learned counsel for the applicant, learned Deputy Prosecutor General and perused the material available on the record.

7. Admittedly there is delay of five days in lodging of F.I.R and in background of enmity, it cannot be ruled out that F.I.R has been lodged with due deliberation and consultation; specific role of causing K.K shot has been attributed to co-accused Sajid Junejo, which hit to injured on his back. Whereas injury attributed to applicant is declared as Shujjah-e-Khafifa punishable U/S 337-A(i), which is bailable, hence his case calls for further inquiry within the provisions of Section 497 Cr.P.C; that the applicant is arrested on 20.02.2023 and no any incriminating material has been recovered from his possession. No overt act has been assigned to applicant. The progress report has been called from the trial court, which reveals that case is fixed for recording evidence of prosecution witnesses but neither the complainant nor his injured witnesses is appearing before the trial court and trial court has adopted coercive action in order to procure their attendance and issued B.Ws. against the prosecution witnesses. The applicant is in jail without progress in the trial. Reliance is placed on record on the case of *Meeran Bux versus The State and another* reported in **PLD 1989 S.C 347** and case of *Muhammad Umar v/s The State and another* **PLD 2004 S.C 477**.

8. From tentative assessment material available on record, it appears that case of applicant requires further inquiry, therefore, he is admitted on post-arrest bail subject to furnishing solvent furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and P.R bond in the like amount to the satisfaction of trial court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial court while deciding the case of either party at trial.

J U D G E

Abdul Salam/P.A