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ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 351 of 2016.

Date of hearing
29.08.2017.

Order with signature of Judge

For hearing of bail application.

Mr. Muhammad Afzal Jagirani, Advocate files Vakalatnama on behalf of the applicant, which is taken on record.
Mr. Faiz Muhammad Larik, Advocate for complainant.
Mr. Gada Hussain Abro, DDPP.

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For reasons to be recorded later on, interim pre arrest bail already granted to applicant on 25.07.2016 is hereby confirmed on same terms and conditions.



JUDGE

Ansari/\*

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Omar Sial, J: Applicant Abdul Latif has sought pre-arrest bail in crime number 14 of 2014 registered under Sections 324, 337-F (i), 337-H (2), 147, 148, 149, 504 and 109 PPC at Police Station Mado.

The Applicant was earlier granted interim pre-arrest bail (in Crl. Bail Application No. S- 484 of 2014) which was recalled on 20-6-2016 as the Applicant remained absent that day having not returned from Umrah.

Brief facts of the case are that on 2-9-2014 at about 2230 hours the aforementioned FIR was lodged by one Ghulam Mustafa who stated therein that 4 to 5 days he had exchanged some harsh words with one Latif Khonharo over the issue of water rotation. Earlier that day Latif had caused injuries to his cousin and the complainant along with one Mohammad Ayoob, Mumtaz, Piral, Ramzan and Zafar went to see Jamshed in Nawabshah. When they were returning on a motorcycle they were waylaid by twenty persons out of which the complainant identified sixteen (including the Applicant) while four remained unidentified. All were armed with different weapons. Accused Hameed fired at Mohammad Ayoob and injured him; accused Latif fired at Mumtaz and injured him while Ramzan was hit by a stone which injured him. The accused kept firing for 20 minutes after that but the remaining members of the complainant party remained safe. (B)

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I have heard the learned counsel for the Applicants and the complainant as well as the learned DDPP. I have also examined the record with their assistance. My observations are as follows.

- (i) The story as narrated in the FIR requires further enquiry. On the face of it, it seems rather odd and strange that the complainant was left unscratched by the twenty heavily armed persons who kept firing for 20 minutes and whose primary target should have been the complainant as he was the one harsh words were exchanged with. It also prima facie appears unnatural that the complainant in the midst of such wild spray of bullets not only remained unscratched but also managed to identify sixteen accused and the weapons they carried as well as which accused fired at whom. All the nominated accused are from the same family and at this stage throwing the net wide by the complainant with ulterior motives cannot be conclusively ruled out.
- (ii) A vague role of firing at Mumtaz has been assigned to the Applicant. It is not specified which part of the body he was hit at and none of the learned counsel have put on record the medical report relating to the injured. In fact, no assistance from any counsel has been provided to this Court.
- (iii) No recovery has been made to date by the investigating officer. This also seems odd keeping in view the allegation that the assailants kept firing for 20 minutes.
- (iv) The accused party had earlier filed a FIR bearing number 15 of 2014 at the same police station against the complainant party in this FIR. It appears that this is a case of cross versions. It will have to be determined in trial who was the aggressor and who was the aggrieved.
- (v) As regards the 1st bail application of the Applicant, he has put on record copies of his ticket, passport and boarding pass which evidence that he was in Saudi Arabia when his bail was dismissed for his absence. The Applicant should not have been negligent and should have sought permission of the Court before he left, however, keeping all the circumstances of the case in mind and my observations above, I have formed the view that this reason alone is not sufficient to deny him pre-arrest bail.
- (vi) The case of the Applicant, apart from possible malafide on the part of the complainant party, also warrants further enquiry.

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Above are the reasons for my short order of 29.08.2017, which confirmed the interim pre-arrest bail granted to the Applicant earlier on 25.07.2016 upon the same terms and conditions.


31/8/17
JUDGE

Ansari/*