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THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

1st Criminal Bail No.S-606 of 2022

Applicant: Irfan through Syed Soofan Shah, Advocate.

Respondent: The State
Through Mr. Ali Anwar Kandhro, Additional
Prosecutor General, Sindh.

Date of hearing: 29.12.2022

Date of Order: 29.12.2022

ORDER

OMAR SIAL, J.- Applicant Irfan Khuhro has sought post arrest bail in crime number 18 of 2021 registered under sections 302, 324, 148, 149 and 337-H(2) P.P.C. at Ketu Mumtaz police station on 15.07.2021. The F.I.R. was registered on 15.07.2021 on the complaint of Mohammad Yaqoob. Earlier, the application seeking bail, filed by the applicant Irfan Khuhro was dismissed by the learned Additional Sessions Judge, Ratodero on 25.11.2022.

2. The complainant in the aforementioned F.I.R., recorded that the heads of the Khuhro and Bhutto tribes, for many years have been at loggerheads over a tract of land. On 14.07.2021, Irfan along with his brother Mohammad Uris, Mohammad Muqeem and Ameer Ali Bhutto were working on their land when 12 armed persons appeared on the scene. The armed persons along with the weapons they carried were identified by the complainant. One of the armed persons, identified as Abdul Shakoor, fired at Mohammad Uris whereas another armed person, identified as Asif Ali, fired upon Mohammad Muqeem and yet another armed person, identified as Rashid Khuhro, also fired upon Mohammad Muqeem. Another accused identified as Wazir Ali fired at Ameer Ali. While Mohammad

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Muqeen and Ameer Ali were injured, Mohammad Uris succumbed to his injury.

3. Learned counsel for the applicant has argued that the applicant has been assigned the role of presence and is an admitted fact that he did not fire at or injure any of the members of the complainant party. According to him, the false implication is due to the long standing dispute between the Khuhros and the Bhuttos over a tract of land, the ownership of which is claimed by both.

4. The learned Addl. P.G. in his arguments stated that the applicant was also present on the spot. None effected an appearance on behalf of the complainant.

5. My observations and findings are as follows:

The F.I.R. in itself reveals that the applicant is accused of being present on the spot and has played role on the shooting. In such an eventuality whether the applicant was present on the spot and further, whether he shared a common intention with those accused who allegedly opened fire at the complainant party, is a question which can be decided only after evidence is led at trial. At this stage, in view of the evidence on record and also keeping in view the fact of delay in the lodging of the F.I.R., it would be pre-mature to form even a *prima facie* opinion that common intention was present.

The applicant, in view of the above observations, is admitted to post arrest bail, subject to his furnishing a solvent surety in the sum of Rs. 100,000 (Rupees One Hundred Thousands only) and a P.R. Bond in the like amount to the satisfaction of the learned Additional Registrar of this Court.



J U D G E