

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Appln. No. S-25 of 2024

Applicant	Muhammad Ismail s/o Hout Khan Mettlo, through Mr. Habibullah G. Ghouri, advocate
Complainant	Sadam Hussain Through Mr. Bakhtiar Ahmed Sahito, advocate
The State	Mr. Aitbar Ali Bullo, D.P.G for the State
Date of hearing:	13-06-2024
Date of Order:	13-06-2024

MAHMOOD A. KHAN, J.- Through instant criminal bail application, the applicant/accused Muhammad Ismail s/o Hout Khan Mettlo, seeks post-arrest bail in Crime No. 120/2013, registered at Police Station Naudero, for the offence U/S 324, 148, 149, 337-H(ii), 504 P.P.C. after rejection of his bail plea by the learned trial court vide order dated 22.12.2023.

2. There is no need to repeat detailed facts of the case, however in abbreviation as to the allegations, as per F.I.R, on the day of incident, the complainant along with his mother and cousin were going to Larkana and were standing Sim Shakh village at Maitlla, at about 1030 hours, the applicant/accused armed with gun, along with other co-accused Muhammad Yousif @ Yousif Maittlo armed with gun, Nazir Hussain armed with gun, Bashir Ahmed Brohi armed with Kalashnikov, Hoat armed with gun, Javed armed with Kalashnikov and three unidentified persons armed with gun came, applicant/accused Ismail made straight fire upon cousin of the complainant Amir Ali, which hit him at right arm and other accused also made straight fires upon complainant party, thereafter all the accused went away.

3. Learned counsel for the applicant/accused has contended that applicant/accused is innocent and he has falsely been implicated in this case by the complainant party with ulterior motives due to old enmity; that there is delay of two days in lodging of F.I.R, which has not been explained properly;

that the case of applicant is identical to the case of co-accused Bashir Ahmed, Javed and Hoat, who have already been granted bail by the learned trial court on similar role, therefore, the applicant is entitled for concession of grant of bail on the rule of consistency. He has placed on record true copies of orders. It is further contended that the sections applied in the F.I.R do not fall within the prohibitory clause of Section 497 Cr.P.C, except Section 324 P.P.C, which will be determined at the time of trial. He has, therefore, prayed for grant of post-arrest bail to the applicant/accused.

4. On the other hand, learned Deputy Prosecutor General assisted by learned counsel for the complainant have vehemently opposed for grant of bail on the ground that applicant is nominated in this offence with specific role of causing fire arm injury. Learned counsel for the complainant has further added that the applicant is habitual offender, therefore, he is not entitled for any leniency and prayed for dismissal of his bail application.

5. Heard learned counsel for the applicant, learned counsel for the complainant, learned D.P.G. and perused the material available on the record.

6. Admittedly, the name of the applicant is mentioned in the F.I.R but from the face of F.I.R, it appears that there is enmity in between the parties as such false implication of the applicant cannot be ruled out. The applicant was arrested on 15.11.2023 and challaned in the court on 29.11.2023. Moreover, the case of applicant is identical to the case of co-accused Bashir Ahmed, Javed and Hoat, who have already been granted bail by the learned trial court rather as a case of present applicant is better. No any criminal record of applicant has been produced to show that he is habitual offender. The offence for which the applicant is charged does not come within the prohibitory clause of Section 497 Cr.P.C except Section 324 P.P.C, which too requires evidence.

7. From the tentative assessment of the material available on record, it appears that the applicant/accused has made out a good prima facie case for further enquiry, as envisaged in subsection 2 of section 497 Cr.P.C. therefore, he is entitled for grant of post-arrest bail.

8. Accordingly, instant bail application is hereby allowed. Applicant/accused is admitted on post-arrest bail subject to his furnishing



solvent surety in the sum of Rs.100,000/- (Rupees one hundred thousand) and P.R bond in the like amount to the satisfaction of learned 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