

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No.S- 621 of 2020

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection as flag A.
2. For hearing of bail application.

31.12.2020.

Applicants are present on interim bail.

Mr. Aitbar Ali Bullo, D.P.G.

ORDER

MUHAMMAD SALEEM JESSAR-J.- Through this bail application, applicants Shahmir and Hamzo alias Mir Hamzo seek their pre arrest bail in Crime No.46 of 2020 of P.S Dokri registered for an offence under Section 324, 353, 147, 148, 149 PPC. Previously the applicants sought same relief from concerned Court of Sessions where initially they were granted ad-interim pre arrest bail but later on its confirmation was declined vide order dated 24.11.2020.

Applicants are present in person and submits that case against them is false and fabricated as they belong to District Jacobabad whereas instant case has been shown to have registered by Dokri police of Distt: Larkana, at the instance of their opponent. They further submit that they had not made any firing upon police party nor any incident had occurred as alleged by the prosecution. However, after furnishing surety before this Court they have been appearing before the trial Court/Judicial Magistrate, Dokri. They further submit that they being poor are not in a position to afford two hearings before different forums, hence they prayed for confirmation of bail.

Learned D.P.G opposed the bail application on the ground that applicants are nominated in the FIR and besides they attempted to commit qatl-i-amd of police party headed by complainant ASI Wazir Ali Jhatyal. He, however, could not controvert the fact that during encounter none from either side had sustained any scratch on their part.

Heard applicants in person and learned D.P.G as well as perused the material available on record. Admittedly the police party duly armed with sophisticated weapons and accused were also having danda as well as gun but surprisingly enough to note that despite cross firing which lasted for five minutes, none from either side had sustained any scratch on their part.

Since no injury was sustained by any member of police party therefore, application of section 324 PPC is yet to be established by the prosecution after recording of evidence. As far as rest of sections are concerned, same are bailable and also require evidence. Case as apparent on record is still pending for preliminary proceedings before the Civil Judge and Judicial Magistrate, Dokri in terms of dicta laid down in the case of Muhammad Ramzan v. Rahib Ali and others (PLD 2010 S.C 585).

In the circumstances and in view of dicta laid down by Hon'ble Supreme Court in the case of Khalil Ahmed Soomro v. The State (PLD 2017 S.C 730) case against the applicants requires further enquiry within meaning of subsection (2) of Section 497 Cr.P.C. Consequently instant bail application is hereby allowed. Interim bail already granted to them vide order dated 01.12.2020 is hereby confirmed on same terms and conditions. Applicants present are directed to continue their appearance before Judicial Magistrate, Dokri and then to Court of Sessions which is ultimate Court of their trial. Copy of order be communicated to learned Judicial Magistrate, Dokri through Sessions Judge, Larkana for compliance.


JUDGE

shabir