

Crl. Bail Appln. No. 1- 96 and
104 of 2024

Date of hearing

Order with signature of Judge

18.01.2024.

Mr. Sajid Hussain Mahessar, Advocate for applicants in Crl. Bail Appln.
No. S- 96 of 2024.

Mr. Muhammad Murad Tunio, Advocate for applicants in Crl. Bail Appln.
No. S- 104 of 2024.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Dr. Masud Rehman Kalhoro, Medical Officer THQ Hospital Mehar.

ASI Hoot Khan Janveri of P.S Mehar, the complainant of case.

ORDER

Muhammad Saleem Jettar, J: Captioned two bail applications are outcome of one and same crime i.e. F.I.R No. 427 of 2023 registered at P.S Mehar, for offences punishable under Sections 324, 337-II (2), 504, 147, 148 and 149 P.P.C., as such these are disposed of by this common order.

2. Crl. Bail Appln. No. S- 96 of 2024 has been filed on behalf of applicants Imtiaz, Nawab, Liaquat Ali, Asghar alias Ali Asghar and Mehboob. Whereas Crl. Bail Appln. No. S- 104 of 2024 has been filed on behalf of applicants Shaukat Ali, Deedar Ali, Shah Nawaz alias Shahoo and Abdul Majeed for their admission to pre arrest bail. The bail plea of applicants was declined by learned Court below vide single Order dated 26.01.2024.

3. The facts of prosecution case are already mentioned in para 2 of the impugned order and for the sake of convenience, such para from impugned order is reproduced here:

"Precisely stated the facts as contained in the F.I.R are that on 19.12.2023, the complainant ASI Hoot Khan Janveri was present on his duty at P.S Mehar. During which at about 1210 hours, he heard the reports of firing from Daud Mahessar Faridabad Road. Owing to which, he along with his staff left P.S and when reached at Daud Mahessar Faridabad Road, he saw that the accused Imtiaz Ali, Nawab, Liaquat, Asghar, Mehboob all by caste Mahessar resident of Daud Mahessar along with 4/5 unknown persons were armed with repeater guns and pistols. While other party No.2 was accused Shaukat Ali Mahessar, Deedar Khoso, Shah Nawaz Mahessar, Majeed Khoso alongwith 4/5 unknown persons who were also armed with repeater guns and pistols. Both the parties were making straight firing with intention to commit murder of each other and were calling bad names. On intervention of the complainant/ ASI and on the sight of police party, both parties fled away in the streets. The ASI also came to know that during cross firing between the parties one common commuter namely Zamin Ali Depar has sustained fire arm injury on his face and taken away by his relatives to the Civil Hospital for medical treatment. The police proceeded to the Civil Hospital and gave police letter to the injured for medical treatment and MLC and the injured was referred to Larkana. Thereafter, the complainant/ ASI went back to P.S and lodged the instant F.I.R, since no person from either of the parties came forward to lodge F.I.R."

4. Learned counsel for the applicants mainly contended that, the applicants have been implicated in this case by the police with mala fide intention and ulterior motives; that F.I.R is delayed for more than four hours; that there are general allegations of all the accused (both parties) for cross-firing; however there is no specification against any of the accused of causing injury to injured Zamin Ali. Per learned counsel the alleged injury on the person of injured has been declared as *Shajjah-e-Khafifah*, which is bailable and do not fall within prohibitory clause of Section 497 Cr.P.C. Lastly, learned counsel prayed for confirmation of interim pre arrest bail.

5. Learned Addl. P.G. in view of the nature of injury concedes for grant of pre arrest bail.

6. From a tentative assessment of the record it appears that there is no specification of role of any of applicants for causing the alleged injury to passerby Zamin Ali. Even otherwise, the injury on the person of injured Zamin Ali has been declared by the medical officer as *Shajjah-e-Khafifah*, which falls under Sections 337-A (i) P.P.C carrying punishment upto only **two years** and is **bail-able**. As such, this injury does not fall within prohibitory clause of Section of 497 Cr.P.C. Moreover, the applicants have already joined the trial and attending the trial Court regularly and have not misused the concession of interim bail.

7. Accordingly, in view of above position, these applications stand allowed. Consequently, interim pre-arrest bail already granted to applicants vide Order dated 14.02.2024 and 16.02.2024 respectively, is hereby confirmed on same terms and conditions.

Judge