

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Crl. Bail Appln. No.S-242 of 2022.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For hearing of bail application.

**26.05.2022.**

Mr. Sanaullah Gilal, advocate for the applicant along with applicant on bail.

Mr. Ali Anwar Kandhro, Addl. P. G.

**ORDER.**

**MUHAMAD SALEEM JESSAR-J** Through instant bail application, applicant Noor Ali alias Anwar Ali son of Dilmurad Mastoi, seeks pre arrest bail in Crime No.120 of 2021 registered at Police Station Kamber City, for offence punishable under section 324, 34, PPC.

2. Brief facts of the prosecution case are that on 30.04.2021, complainant Gul Muhammad son of Ahmed lodged F.I.R stating therein that Mst. Gul Pari, the sister of accused Fayaz Mastoi, was married with his son Noor Nabi. About 3/4 years ago, the wife of his son Noor Nabi was murdered on account of domestic dispute and on that party of Fayaz Hussain Mastoi and others were annoyed and they used to say that they would avenge for the murder of Mst. Gul Pari. On 17.01.2021, complainant, his son Noor Nabi and their relative Deedar, were sleeping in their Otaz, the electric bulbs were glowing, at about 5:30 a.m, there occurred noise on the door of sleeping-room, complainant woke-up on the noise, his son Noor Nabi opened the door; in the meantime, three persons intruded into the room, whom they identified to be every one Noor Ali son of Dilmurad Mastoi, 2.Fayaz son of Dost Muhammad Mastoi, both armed with guns and one bare-faced unidentified person armed with pistol, who was seen by them on the light of electric bulbs

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and would be identified if seen again. Meanwhile, accused Noor Ali Mastoi by raising 'hakal' said that Noor Nabi has killed his friend Fayaz's sister Gul Pari, so today they will kill Noor Nabi and by saying so within their sight Noor Ali fired straight with his gun upon Noor Nabi with intention of murder, the fire hit him and he by raising cry fell down, then complainant party raised cries, where-after all three accused persons along with weapons went away from the Otaz. Complainant party saw Noor Nabi and found him one fire shot having hit him at his right side of arm. They took the injured and got letter from Police Station for treatment and lodged the F.I.R to the above effect.

3. Learned counsel for the applicant submits that F.I.R is delayed for about four months and the role allegedly assigned to the applicant is of firearm injuries to injured PW Noor Nabi, which landed on his right arm which is not vital part of the body. He next submits that the applicant was let off by the police during investigation; however, was arrayed as an accused by the Civil Judge & Judicial Magistrate-II, Kamber, Kamber, through his order dated.08.6.2021, besides the complainant party have forgiven the accused on the intervention of elder people of their community, hence prays for confirmation of bail.

4. The process issued against the complainant returned served, taken on record. Complainant Gul Muhammad, present in person submits that injured Noor Nabi is his son; however, he has no objection for grant of bail as due to compromise with the accused they have settled the accounts with accused.

5. Learned Addl. P. G in view of no objection advanced by the complainant does not oppose the bail application.

6. Admittedly, the F.I.R is delayed for about four months and no plausible explanation has been furnished by the prosecution for

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such an inordinate delay. The role attributed to the accused is that he allegedly caused firearm injury to injured Noor Nabi, which landed on his right arm and the seat of injury is a non vital part of the body of the injured, besides the police during investigation found the applicant to be innocent, therefore, his name was kept under column No.2 of the challan. Such report in terms of Section 173, Cr.P.C was filed before the Civil Judge/Judicial Magistrate-II Kamber, who did not concur his opinion with police report and took cognizance of the case vide his order dated.08.6.2021; since the offence as alleged had occurred in odd hours of the night, therefore, false implication of the accused or mistaken identity cannot be ruled out. In the circumstances and in view of no objection raised by complainant and learned Addl. P. G, this bail application is hereby allowed. Interim bail granted to the applicant on 13.05.2022 is hereby confirmed on the same terms and conditions.

Judge