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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No.S-129 of 2014.

DATE OF
HEARING
05.05.2014.

ORDER WITH SIGNATURE OF HON'BLE JUDGE.

1. For orders on office objection.
2. For hearing.

Mr. Sajid Hussain Mahessar, advocate for the applicants.

Mr. Mushtaq Ahmed Kourejo, Standing Counsel for D.A.G.

Through instant application, applicants Mohammad Ismail, Wahid Ali and Abdullah, all by caste Chandio, seek post arrest bail in crime No.01/2014, registered at Police Station Railway, Larkana, under Sections 324, 353, 337-A(i), 147, 148, 149, 186, PPC, read with Section 122-C of the Railway Act.

2. Precisely, relevant facts are that applicants caused deterrence while officials of railway alongwith police officials were dismantling the encroachment over the property owned by Railway Department under the directions of their high-ups. It is further alleged that applicants were members of that mob who hurled stones and pieces of bricks upon the complainant party; in retaliation police also caused firing in their defence. Applicants were arrested and booked in instant case. Thereafter they were sent up for trial.

3. Learned Counsel, inter alia, contends that applicants have been booked falsely, no specific role is assigned to them, all sections are bailable except Section 324, PPC, the same is misapplied as during this occurrence none has received any fatal injury; instant case falls within the definition of further inquiry, thus applicants are entitled for concession of bail.

4. Conversely, learned Standing Counsel for D.A.G., while refuting the above contentions, argued that applicants have caused disturbance to the officials of Railway Department, while they were

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performing their official duties; they encroached over the property owned by government, therefore, they are not entitled for bail.

5. Heard learned Counsel and perused the record.

6. While scanning the available record it is manifest that no specific role is assigned to the applicants, candidly there is allegation against many persons. Though there is allegation that applicants led the mob who tried to cause deterrence and create problem for the officials of railway, while dismantling the illegal construction raised over the government property. It is further matter of record that officials of railway succeeded to dispossess the encroachers, their operation was completed. Moreover, it is matter of record that none has received any fatal injury from complainant side, even it is claim of the complainant party that they caused firing in their defence. Under these circumstances, involvement of the applicants apparently requires further probe. It is settled principle of law that bail cannot be withheld as a conviction. Applicants are not required for further investigation as case is pending for adjudication of their guilt, hence applicants have succeeded to bring their case within the sphere of further inquiry as contemplated under subsection (2) of Section 497, Cr.P.C. Consequently, they are admitted to post arrest bail in the sum of Rs.50,000/- (Rupees Fifty Thousand) each and P.R bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention that reasons assigned hereinabove are tentative in nature and will not prejudice to the case of either party.


JUDGE