

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Before:

Mr. Justice Omar Sial

Mr. Justice Khalid Hussain Shahani

1st Criminal Ball No.D-48 of 2024

1st Criminal Ball No.D-49 of 2024

Sher Ali Shar

V/S

The State

Applicant:

Sher Ali son of Zaman Shar
Through Mr. Iran Ali Shar, Advocate.

State:

Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh a/w M.L.O.
Dr. Naresh Lal and I.O/ASI Hussain Bux.

Date of Hearing:

18.03.2025

Date of Decision:

20.03.2025

ORDER

Omar Sial, J.- Sher Ali seeks post-arrest bail in crime number 62 of 2024 registered under sections 324, 353, 147, 148, 149 and 337-H(ii) P.P.C. at the Lakhi Gate police station. He also seeks post-arrest bail in crime number 63 of 2024 was registered under section 23(1)(a) and 25 P.P.C. Both crimes arise from the same incident and therefore will be disposed of through this common order.

2. The F.I.R. mentioned above was registered on 18.06.2024 on the complaint made by Hussain Bux acting on behalf of the State. He recorded that a police party led by him was on routine patrol when they saw two large groups of people belonging to the Shar and Lohar tribes having an altercation. The police party identified nine persons from the Shar community while four to five persons were unidentified. Four persons from the Lohar community were also identified. One of the identified Shar clan man Sain Dino fired at Irfan Ali from the Lohar clan, which shot hit Irfan on his elbow. Sain Dino fired at P.C. Wajid while Sher Ali fired at P.C. Ashique. Sher Ali



67

was arrested on the spot. Besides the two policemen, four individuals from the Lohar clan were also injured. A weapon was recovered from Sher Ali which was unlicensed. Accordingly, F.I.R. No. 63 of 20204 was registered under section 23(1)(a) and 25 P.P.C. at the Lakhi Gate police station.

3. We have heard the learned counsel for the applicant and the learned Deputy Prosecutor General. Our observations and findings are as follows.

4. There is one aspect of the case that has created doubt in our minds. The incident is said to have occurred on 18.06.2024 but the Provisional Medical Certificates issued to the injured are dated 08.08.2024. This would have not been an issue if the Final Medical Certificate was issued two months later, but a Provisional Medical Certificate issued after two months of an occurrence. In order to understand this anomaly, the doctor was summoned to explain. His explanation was that he examined the accused then went away for Eid and when he returned two months later he issued the medical certificates. With much respect we did not find his explanation convincing or confidence inspiring. It has also been claimed that the injured were in hospital till at least 20.06.2024. Showing leniency, as it was alleged that the police was fired upon, the State was given an opportunity to produce any form of medical records of the injured while admitted in hospital. None was made available by the State. The case against the applicant is one of further inquiry.

5. Even if the prosecution version is taken into account, the injury attributed to the applicant is a superficial injury on the buttock and in all likelihood would fall within the ambit of section 337-F(iii) which though not bailable carries a potential sentence of up to three years thus falling within the non-prohibitory clause of section 497 Cr.P.C. It is yet to be seen whether the ingredients of section 324 were satisfied. No doubt the learned trial court will be in a position to do so after it has had the opportunity to review evidence produced at trial.

6. The benefit of the doubt created in the main case against the applicant will trickle down to the case under the arms legislation filed against him. In that case the weapon has been seized thus even if recovered from the applicant, it cannot be used any longer by him. No purpose will be served to keep the applicant incarcerated pending trial.

7. Given the above the applicant is admitted to bail subject to his giving a Rs. 500,000 surety in each case and a P.R. Bond for the same amount. As a

further condition of bail, the applicant shall not directly or indirectly contact the injured in the case till the conclusion of the trial. Upon evidence being provided that this condition has been breached, the learned trial court shall cancel the concession given herein.


Judge
Judge 20/3/25

Manzoor