

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Cr. Bail Appln. No.S-244 of 2021
Cr. Bail Appln. No.S-253 of 2021

ORDER WITH SIGNATURE OF JUDGE

Mr. Razi Khan Nabi Bux R. Chandio, advocate for the applicant in Cr. Bail Appln. No.S-244/2021.

Mr. Ghulam Yaseen A. Junejo, advocate for the applicant in Cr. Bail Appln. No.S-244/2021.

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

Mr. Altaf Hussain Surahio, advocate for the complainant in Cr. Bail Appln. No.S-244/2021.

Date of Hearing : 13.09.2021.

Date of decision : 13.09.2021.

ORDER

Omar Sial, J.- Bandh Ali Mugheri and Munawar Mugheri have both sought pre-arrest bail in crime number 45 of 2021 registered under sections 324, 148, 149 and 337-H(ii), P.P.C. at the Taluka police station. Earlier, their application seeking bail was dismissed by the learned Sessions Judge, Larkana on 22-5-2021.

2. A background to the case is that the aforementioned F.I.R. was lodged by Muhammad Pannah on 5-5-2021 recording therein that there is a dispute between him and the applicant Bandh Ali Mugheri over a fish pond and in that connection he has registered 2 F.I.Rs against Mugheri. Earlier that day once again an altercation occurred between the two. Later, at night, when Pannah was returning home with his brother Aslam and friend Zahid Hussain, 11 armed men waylaid them. 6 were identified, that included the 2 applicants, whereas 5 were unknown persons. Applicant Bandh Ali Mugheri fired from his repeater which fire hit Aslam in the middle of his chest. Applicant Munawar Ali fired with his repeater at Zahid, which fire hit his right thigh. The complainant managed to hide and remained unhurt.

3. I have heard the learned counsel for the applicant as well as the learned counsel for the complainant and the learned Additional Prosecutor General. My observations and findings are as follows.

4. The injured were present in court during the hearing and the scars of the wounds they had *prima facie* creates doubt as to the accuracy of the story narrated in the F.I.R. Upon a tentative assessment the scar of the injury sustained by Aslam does not at all reflect a fire from a short range sustained by a repeater. The incident occurred on 4-5-2021 but no medico-legal certificate was issued till 26-5-2021. At the moment there appears to be no reason for the delay. Further, the medico-legal certificate issued showed that the injury sustained was by either a firearm or a hard and blunt substance. A medical board was set up to re-examine the injured which concurred that the injury was a firearm injury. While the truth of the matter will have to be determined at trial, as the MLO Dr.Ashok Kumar is listed as one of the prosecution witnesses, at the moment keeping in mind the other factors, doubt is created as to the story of the complainant. It is an admitted position that though it is alleged that the 2 men were fired upon by repeaters, no empty of a cartridge was found from the scene of incident where only a few 30-bore empties were recovered. As far as the accused were concerned, the main protagonist was the complainant himself. It seems strange that his 2 companions got injured whereas he stayed unscratched and managed to hide close by from where he witnessed the events; even though 11 allegedly fully armed men had waylaid the complainant party. Upon a tentative assessment, the version of the complainant appears exaggerated. It appears from the record that the relationship between the parties is strained, to say the least, with a number of cases having previously been filed. In the background of the foregoing observations, *malafide* on the part of the complainant to throw the net wide cannot be conclusively ruled out at this preliminary stage. The nexus of the applicants with the offence requires further inquiry.

5. Above are the reasons for the short order of earlier today.


JUDGE