

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Cr. Bail Appln. No. D- 09 of 2022.

Date

Order with signature of Hon'ble Judge

1. For orders on office objection as flag A.
2. For hearing of bail application.

27.7.2022.

Mr. Habibullah G. Ghouri, advocate for the applicant.

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

ORDER**ADNAL-UL-KARIM MEMON-].**

Through the captioned bail application, applicant Abdullah Jatoi is seeking post-arrest bail in F.I.R No.19 of 2021, registered with Police Station Lashari, District Larkana for the offenses under Sections 324, 353, 148, and 149 PPC, read with section 6 and 7 Anti-terrorism Act, 1997.

2. We have heard the learned counsel for the parties and perused the record, with their assistance.

3. The prosecution case is that on 08.7.2021 complainant SIP Abdul Haque Khatiyani Station Investigation Officer of Police Station Ratodero lodged the FIR with the assertion that they were attacked by the applicant and his accomplices, near Bago, to cause their murder and they also fired in defense. It is further alleged by the complainant that within their sight accused Khuda Bux fired from K.K type rifle upon Police Constable Janib Ali Lolai which hit him on his left side belly and thereafter accused while taking advantage of thick wild grass decamped. Later on, injured PC Janib Lolai was brought to P.S Lashari and after getting the letter, he was shifted to Taluka Hospital Ratodero for first aid, and then the FIR was lodged to the above effect. After the registration of the FIR, the investigation was followed and the applicant was arrested and he was sent up to face trial before a competent Court of Law, where a post-arrest bail application was filed on his behalf but his bail plea was declined by the learned trial Court vide order dated 28.08.2021, giving rise to filing of the instant bail application. Learned Addl. P.G opposed the grant of bail on the ground that sufficient material is available against the applicant to connect him to the aforesaid crime, thus he is not entitled to the concession of post-arrest bail.

4. Mr. Habibullah G. Ghouri, learned Counsel for the applicant, contended that the applicant is innocent and has falsely been implicated in the present case by the police with malafide and ulterior motives; that the prosecution story on the face of it appears to be managed, concocted and absurd as it is highly unbelievable that 13 culprits and 7 policemen duly armed with sophisticated weapons kept engaged in the cross firing but none from either side received injury except single shot received by PC Janib Ali at the hands of only accused Khuda Bux @Khudo Jalbani or any bullet hit to police vehicle; there is no recovery effected from the present applicant; that the present applicant has nothing to do with the alleged encounter with police party but in fact on 6.7.2021 he alone with his father and relatives Mst.Imamzadi, Mst.Razia and Mst. Shahzadi was going to Larkana when at 2.00 pm, they were intercepted by ASI Jameel Odho and other policemen, their motorcycle was snatched and applicant along with his father were taken to the police station and on non-payment of bribe, the applicant was half fried and his father is still in police custody for whom Mst. Shahzadi filed 22-A and B Cr. P.C before learned Sessions Judge, Larkana which was dismissed and the same has been challenged before this Court; that on 8.7.2021 besides the case in hand present applicant was also involved in Crime No.101 of 2021 P.S Ratodero and on 09.7.2021 he has been shown arrested in two other cases of recovery of K.K type repeater. On all these scores learned counsel contended that the prosecution case against the present applicant calls for further inquiry and he is entitled to concession of bail.

5. Because of the above arguments advanced by the learned counsel for the parties and looking to the fact of the case against the applicant, which is of alleged police encounter; and prima-facie there is no concrete evidence gathered against the applicant to deny post-arrest bail to him at this stage.

6. Taking into consideration the quantum of punishment, nature of the offense, and period of detention of the applicant, prima-facie, this case is found to be a fit case for post-arrest bail in the aforesaid crime in terms of section 497(2) Cr.P.C.

7. Let the applicant Abdullah Jatui, allegedly involved in F.I.R No.19 of 2021, registered with Police Station Lashari, District Larkana for the offenses under Sections 324, 353, 148, and 149 PPC, read with sections 6 and 7 Anti-terrorism Act, 1997, be released on post-arrest bail, on his furnishing a solvent surety in the sum of Rs. 100000/- and PR Bond in the like amount to the satisfaction of the trial Court. However, it is made clear that the observation recorded hereinabove is tentative which shall not prejudice the case of either party at the trial.

 JUDGE
JUDGE