

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

Cr. Bail Application. No. S- 494 of 2024

Ghulam Shabir Jamali

Versus

The state

SINDH HIGH COURT

Composition of Bench Before Mr. Justice Muhammad Saleem Jessar Single/D.B.

Date of Hearing: 26/12/2024

Decided on: 26/12/2024

(a) Judgment approved for
Reporting

☒ YES
☐ NO

26/12/24

CERTIFICATE

Certified that the judgment / Order is based upon or enunciates a principle of law / decides a question of law which is of first impression / distinguishes/ over-rules/ reverses/ explains a previous decision/Strike out whichever is not applicable.

NOTE: - (i) This slip is only to be used when some action is to be taken.

(ii) If the slip is used. The Reader must attach it to be the top of the first page
Of the judgment.

(iii) Reader must ask the Judge writing the Judgment whether the Judgment is

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Application No.S- 494 of 2024

Applicant:

Ghulam Shabir Jamali,
through Mr. Shafi Muhammad Bango,
Advocate.

The State:

through Mr. Ali Anwar Kandhro, Addl.
Prosecutor General.

Date of hearing : 26.12.2024.

Date of Order : 26.12.2024.

ORDER.

Muhammad Saleem Jessar- J. Through this application the applicant Ghulam Shabir son of Qurban Ali, by caste Jamali, seeks his admission on post arrest bail in Crime No.11/2023, registered at Police Station Fatehpur, for offence under sections 324, 506/2, 337-H(2), 504, 148, 149, PPC read with Sections 6 & 7, Anti-Terrorism Act, 1997. The applicant filed post arrest bail application vide Cr. Bail Application No.891/2024 before the Court of learned Sessions Judge, Larkana, wherefrom it was assigned to learned Additional Sessions Judge-IV, Larkana, who after due notice and hearing the parties declined the prayer so made vide order dated 27.05.2024. As reported the case has been challaned which is now pending for trial before the Court of IV-Assistant Sessions Judge, Larkana.

2. According to the case of prosecution, on 19.05.2023, at 5.00 a.m. time, the applicant along with co-accused, named in the FIR, being armed with deadly weapons, attacked upon complainant Rafique Ahmed Jamali and his family members at their house situated in Village Imam Bux Jamali, Taluka Dokri, wherein they caused firearm injuries to Mst. Wazeeran, mother of complainant as well as his sister Mst. Jameela; hence, such FIR was lodged by the complainant on 23.5.2023.

3. Learned Counsel for the applicant submits that the role assigned to the applicant is general in nature and the injuries allegedly sustained by injured PWs are on non-vital part of their respective bodies and punishment provided by law for such injuries is not exceeding the limits of prohibitory clause of Section 497, Cr.P.C. he further argued that the case has been challaned; however, WMO Dr. Yasmeen Khatoon examined before the trial Court on 15.10.2024 vide Ex.16 and in her cross-examination she has admitted that injuries allegedly sustained by injured PWs Jameelan and Wazeeran Khatoon are older than the date of incident. In support of his contentions, he under the cover of his statement of today's date has placed on record copy of deposition of WMO, taken on record. He, therefore, submits that the case of applicant requires further enquiry and prays for grant of bail.

4. Learned Additional Prosecutor General submits that the applicant is nominated in the FIR and he along with co-accused caused injuries to two ladies, therefore, he is not entitled for concession of bail. He, however, could not controvert the fact that the injuries allegedly sustained by injured ladies Mst. Jameelan and Wazeeran have been declared by the WMO to be punishable under Section 337-F(iii), PPC, carrying maximum punishment of 03 years.

5. Process issued against the complainant has been returned unserved by ASI Rahim Bux of PS Fatehpur, with the endorsement that the complainant of this case is wanted and absconding in Crine No.03/2024 of PS Fatehpur, u/s 302, 148, 149, PPC; copy of the FIR and challan have been placed on record.

6. Heard learned Counsel for the parties and perused the record.

7. No doubt the applicant is nominated in the FIR and was armed with KK, though allegedly used but not specifically mentioned in the FIR to whom he allegedly caused the injuries. As far as injuries allegedly sustained by Mst. Jameelan and Wazeeran are concerned, both the injuries have been declared by the WMO to be punishable under Section 337-F(iii), PPC, which carries maximum punishment of 03 years. As far as application of Section 324, PPC is concerned, it is yet to be established by the prosecution after recording evidence. At this juncture,

no complaint against the applicant with regard to misuse of the concession extended to him has been brought on record. In the circumstances and in view of the dicta laid down by the Hon'ble Supreme Court of Pakistan in the case of *Khalil Ahmed Soomro & others v. The State* (PLD 2017 SC 730), the case of applicant requires further enquiry within the meaning of sub-section (2) to Section 497, Cr.P.C. The applicant has successfully made out his case for grant of pre-arrest bail. Consequently, instant bail application is allowed and the interim pre-arrest bail granted to the applicant on 30.08.2024 is hereby confirmed on same terms and conditions.


JUDGE

Qazi Tahir PA*