

CERTIFICATE OF THE COURT IN REGARD TO REPORTING

1st Crl. Bail Application , No. S. 570 of 2024

Jinsar Ali chandio

V/S

The State

SINDH HIGH COURT

Composition of Bench Before **Mr. Justice Muhammad Saleem Jessar**

Single/ D/B

Date of: Hearing : 01/01/2025

Date of: Order : 01/01/2025

Date of: Reasons

- (a) Judgment approved for
Reporting

YES
NO

01/01/2025

C E R T I F I C A T E

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
Approved for reporting.

(iv) Those directions which are not to be used should be deleted.

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st Cr. Bail Appln. No S- 570 of 2024.

Date of hearing

Order with signature of Judge

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

Applicant : Jinsar Ali Chandio,
through Mr. Akbar Ali Dahar, Advocate along with
applicant (on bail).

The State : Through Mr. Ali Anwar Kandhro, Addl. P.G

Complainant : Through M/s Farooque Ahmed Gaad and Azadi Ali
(Abdul Majeed Chandio) Sher Roongho, Advocates.

Date of hearing : 01.01.2025

Date of Decision : 01.01.2025

ORDER.

Muhammad Saleem Jessar, J.- Through this application, applicant Jinsar Ali son of Mahboob Ali, by caste Chandio, seeks his admission on pre-arrest bail in Crime No.11 of 2024, registered at P.S Seehar, District Larkana, for offences under Sections 324, 337-H(2), 506/2, 147, 148, 149 & 337-D, PPC. Applicant filed anticipatory bail application vide Cr. Bail Appln. No.1989 of 2024 before the Court of Sessions, which was assigned to learned VI-Additional Sessions Judge, Larkana, who after hearing the parties, turned down his request vide order dated 26.09.2024, hence this application has been maintained.

2. The facts of the prosecution case are mentioned in the memo of bail application; therefore, the same need not to be reproduced herein again.

3. Learned counsel for the applicant submits that the FIR is delayed for about 06 days without plausible explanation. He next submits that though the applicant is shown armed with pistol; however, has not caused any injury to the complainant party and the allegation against him is of mere accosting which is yet to be established by the prosecution after recording evidence; hence,

submits that case against the applicant requires further enquiry and prays that by granting application in hand, the applicant may be granted pre-arrest bail. 19

4. Learned Addl. P.G. submits that active role of causing firearm injuries to injured Hamid and Sarfraz is assigned to co-accused Mahboob and Shahbaz; whereas the role of applicant is nothing but of '*alkara*'; therefore, case of applicant requires further enquiry and he has no objection if the bail application is allowed.

5. Learned Counsels appearing on behalf of complainant under the cover of statement of today's date have filed photographs of the injured PWs, taken on record; they oppose the bail application, on the ground that the applicant is nominated in the FIR; besides, he was accompanying co-accused Mahboob and Shahbaz, who caused grievous injuries to PWs Hamid and Sarfraz, therefore, the applicant having shared common intention is not entitled for bail.

6. Heard. Record perused.

7. No doubt, the applicant is nominated in the FIR duly armed with pistol; however, it is also an undeniable fact that he did not cause any injury to the complainant party. Per FIR, the applicant had allegedly accosted the complainant party, which is yet to be established at trial after recording evidence of the prosecution witnesses. It is also evident from the FIR that alleged incident occurred on 23.05.2024, whereas the report thereof was lodged on 29.05.2024 i.e. with the delay of about 06 days and no plausible explanation has been furnished by the prosecution for such an inordinate delay. The delay in criminal cases has always been deprecated by the superior Courts and held fatal for the prosecution. The injuries allegedly sustained by PWs Hamid and Sarfraz are attributed to co-accused Mahboob and Shahbaz; of whom, Mahboob is said to be behind bars while Shahbaz is absconding. It is settled law that every accused has to face the charge as per evidence and the applicant is alleged to have raised only '*alkara*' to the complainant party, which is still to be proved by the prosecution at trial after recording evidence and then

the trial Court has to determine the accusation against him. As admitted by the complainant, the parties are already on strained relations on account of dispute over the plot; hence, malafide on the part of prosecution cannot be ruled out. The case has been challaned and no complaint is brought on record against the applicant regarding misuse of concession of interim pre-arrest bail extended to him. In the circumstances and in view of the dicta laid down by learned Apex Court in the case of *Khalil Ahmed Soomro & others v. The State* (PLD 2017 Supreme Court 730), the case against the applicant requires further enquiry as envisaged under sub-section (2) to Section 497, Cr.P.C.

8. Consequently, instant bail application is hereby allowed. Resultantly, the interim pre-arrest bail granted to the applicant on 03.10.2024 is hereby confirmed on same terms and conditions.

9. The observations recorded above are based on tentative assessment of the material placed on record, which shall not influence the trial Court, in any manner, during the trial.

JUDGE

Qazi Tahir PA