

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

Cr. Bail Appln: No.S-86 of 2018.

DATE ORDER WITH SIGNATURE OF JUDGE

For hearing.

Applicant: Piyaro Khan s/o Khamiso Khan Jatoi
 Through Mr. Muhammad Hassan
 Chandio Advocate.

Complainant: Muhammad Mithal Jatoi
 Through Mr. Ayaz Ali Gopang Advocate

The State: Mr. Shahid Shaikh DPG.

Date of hearing: 25.06.2018.

Date of Decision: 25.06.2018.

ORDER.

AMJAD ALI SAHITO, J.- Through instant pre-arrest bail application, the applicant has sought pre-arrest bail in crime No.24 of 2017 registered at police station Lakhat district Shaheed Benazirabad for offence punishable U/s 324, 337-H(ii), 506(2), 504, 147,149, 114 PPC, who was granted interim pre-arrest bail by this court vide order dated 02.02.2018.

2. Precisely, the facts of prosecution case are that on 04.11.2017 the complainant, his elder brother Gul Hassan

aged about 50-years and his brothers Muhammad Hassan and Haji Khan were working on the land in katcha at about 02.15 pm every one Piyaro Jatoi armed with DBBL gun, his son Aquib with hatchet, Matto Marri with Lathi, Shafi Mari with hatchet, Yaroo Marri, Gullo Mari and Khan Muhammad alias Khanu Marri armed with pistols so also one unidentified person having gun arrived over there and created riot, accused Matto while abusing asked that insptie of restraining them as to why they had come on the land and within the sight of complainant party at the instigation of accused Matto Marri, accused Piyaro Jatoi made straight fire from his gun upon Gul Hassan to kill him, which hit on his stomach above navel on left side and he fell down by raising cries whereas other accused persons created harassment by making aerial firing. Due to cries of complainant party the peoples working on adjoining lands attracted to the place of incident on which all the accused persons raised their weapons by extending threats that in case they again come on the land they would be killed and then making aerial firing escaped away towards jungle. Thereafter complainant party went and saw that blood was oozing from the wound of injured. Then injured was shifted to Kazi Ahmed hospital after obtaining police letter and from where he was referred to PMCH Nawabshah and complainant remained busy in his treatment and subsequently lodged instant FIR.

3. Learned for the applicant inter alia contended that applicant/accused is innocent and has been falsely implicated in this case due to enmity over the land; that there was delay of 3-days in lodging the FIR which has not been plausibly explained; that the injuries sustained to the injured Gul Hassan are self inflicted; he lastly prayed for confirmation of bail to the applicant/accused.

4. While rebutting the above contentions, the learned counsel for the complainant argued that applicant/accused is nominated in the FIR with specific role for causing fire arm injury to injured Gul Hassan, due to which his kidney has been damaged which is vital part of the body; the offence with which applicant/accused has been charged fall within the prohibitory clause; no malafide has been attributed to complainant or police to believe that applicant/accused has falsely been implicated in this case; he lastly submitted that in these circumstances applicant/accused is not entitled for confirmation of bail and prayed for dismissal of pre-arrest bail. He placed his reliance on case of Ranjho Vs. The State reported in 2000 P.Cr.L.J 674.

5. Mr. Shahid Shaikh learned DPG for the state adopted the arguments advanced by learned counsel for the complainant and further submitted that delay has properly been explained

by the complainant; no documentary proof has been produced by the applicant to believe that there is enmity between applicant and complainant over the land.

6. I have carefully heard learned counsel for the parties and perused the material available on the record.

7. It is reflected from the contents of the FIR that specific role has been assigned against the present applicant who had straight away fired from his gun upon injured Gul Hassan which hit at vital part of his body and his kidney has been damaged which shows the intention of applicant to commit Qatl-i-Amd of injured. Such contention is also supported by the medical certificate declaring the injury punishable U/s 337-D PPC which provides punishment for a term which may extended to ten years. It appears that there is enough evidence to indicate that prima facie an attempt was made on the life of injured Gul Hassan and fire arm injury was caused to him, as such at this stage it cannot reasonably conceived that the applicant/accused has been falsely implicated in this case. As regard to delay in lodging of FIR is concerned, apparently it has been sufficiently explained. Alleged offence falls within the prohibitory clause of section 497 Cr.P.C, prima facie ample evidence/material is available with the prosecution to connect the applicant/accused with the commission of such offence.

Needless to mention that deeper appreciation of evidence is not warranted at bail stage. No malafide on the part of complainant or Investigation officer has been pointed out.

8- In view of above, the learned counsel for the applicant/accused has failed to make out a case for grant of pre-arrest bail to the applicant, consequently instant bail before arrest application is dismissed and interim pre-arrest bail already granted to applicant/accused is hereby recalled.

9. It is made clear that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party before the trial Court.

JUDGE.