

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

CrI. Bail Appln. No.S-352 of 2019

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| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE. |
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For hearing of bail application.

Date of hearing 29.07.2019.

Miss. Seema Kaleemullah Shamsi advocate for applicant.

Mr.Khalil Ahmed Maitlo Deputy Prosecutor General.

ARSHAD HUSSAIN KHAN, J; Through instant bail application, applicant/accused Manzoor Ahmed Khoso seeks pre-arrest bail in Crime No.66/2019 registered at Police Station, Abad Sukkur for offences punishable under Sections 324, 447, 448, 337H(ii), 148, 149, 114 PPC.

2. Brief facts of the prosecution case are that on 14.06.2019 complainant lodged FIR stating that he is owner of plot being No.21-22 ad-measuring 480 Sq.Ft. in Ali Commercial Housing Scheme, Sukkur. On the day of incident the complainant and his cousin went to plot and saw applicant Manzoor Ahmed Khoso, Soomar Khoso and other unknown persons having deadly weapons were present at the plot and raising construction work over there. The complainant tried to stop the construction but the applicant along with his other accomplices pointed out their pistols upon the complainant and extended threats to him that if he will come again at the plot he will be killed. Thereafter, complainant went to Mukhtiarkar Office along with documents however, when complainant reached at link road they were intercepted and on account of straight firing by the applicant, the complainant received bullet injury on his left arm thereafter applicant party while

extending threats fled away from the scene, hence complainant lodged FIR.

3. Learned Counsel for the applicant contends that applicant/accused has falsely been involved in this case by the complainant; that story, narrated in the FIR is unbelievable. It is also argued that the complainant concocted the story and has arranged false medical certificate. It is also argued that grant of bail does not mean that discharge of person from accusation, but only the custody is to be shifted from the jail into the hands of surety as under the law there is no provision for compensation of accused if after determination of trial he would be declared as innocent. It is further argued that applicant was granted bail by the trial Court however, on one date on account of non-appearance of the applicant/accused was same was dismissed. The applicant moved another bail application but same was also dismissed being non-maintainable hence, he prayed for confirmation of bail.

4. Learned Deputy Prosecutor General appearing for the State tenders no objection to the grant of bail to applicant.

5. Heard arguments of learned Counsel for the parties and perused the record. From the perusal of the FIR it appears that except section 324 PPC, all the sections mentioned in the FIR are bailable. Insofar as the section 324 PPC (Qatl-e-Amd) is concerned, the complainant were at the mercy of accused party, however, they did not repeat the firing which act of the applicant/accused *prima facie* reflects that they had no intention to commit murder of injured/ complaint which controverts the applicability of section 324 PPC. It is observed that earlier bail application was granted to the applicant but on one date on account of non-appearance of applicant his bail application was dismissed thereafter he moved another bail application that too was dismissed on 20.06.2019. The role of making straight firing is not supported by any evidence, and no any empties were recovered from the place of incident, hence possibility of exaggeration cannot be ruled out. Record also shows that interim pre-arrest bail was granted to applicant/accused by this Court on 24.06.2019 thereafter, applicant/accused is appearing before this Court on each and every date of hearing so before the trial Court.

6. For what has been stated above, I am of the considered view that applicant/accused has made out the case for grant of pre-arrest bail. Consequently, interim pre-arrest bail already granted to applicants/accused vide order dated 24.06.2019 is confirmed on the same terms and conditions. It may also be observed that in event if the applicant misuse the concession of bail, the trial Court would be at liberty to initiate proceedings against him in accordance with law without any reference to this Court.

7. Needless to say, the observations made here-in-above are tentative in nature and only for the purpose of this bail application. Nothing herein shall affect the determination of the facts at the trial or influence the Trial Court in reaching its decision on merits of the case.

Bail application stands disposed of.

J U D G E

Ihsan.