

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD  
**Cr. Bail Application No. S- 714 of 2019**

Taj Muhammad & others ----- Applicants

Versus

The State ----- Respondent

**Cr. Bail Application No-S- 944 of 2019**

Abdul Rehman ----- Applicant.

Versus

The State ----- Respondent.

Date of Hearing : 04.10.2019

Mr. Muhammad Nawaz B Jamali advocate for appellants  
Mr. Shahid Ahmed Shaikh, D.P.G.  
Mr. Fakhurddin Dahraj advocate for complainant.

**ORDER**

**ZULFIQAR ALI SANGI, J.-** By this common order, I propose to dispose of Cr. Bail Application Nos. S- 714 & 944 of 2019, arising out of F.I.R No.103 of 2019 of P.S S.F Rahu registered under Sections 324, 114, 147, 148, 149, 337-H(ii), 504 P.P.C, wherein applicants Taj Muhammad, Muhammad Bux alias Karo, Soomar, Lal Bux and Ali Bux in bail application No-S- 714 of 2019 and Applicant Abdul Rehman in Cr. Bail Application No: 944 of 2019 seek pre-arrest bail, after dismissal of their bail application by the 2<sup>nd</sup> Additional Session Judge, Badin vide order dated 01.07.2109.

2. Allegations as per FIR are that on the day of incident applicants along with deadly weapons came at the place of incident when applicant Ali Bux instigated other accused persons not to spare complainant party on which Taj Muhammad made straight fire upon Haji Muhammad, Soomar made straight fire upon Ali Hassan, Abdul Rehman made fire upon Mir Muhammad. The crises of complainant attracted the villagers and on seeing

them all the accused escaped away. After receiving letter for treatment and leaving the injured at hospital, complainant went at police station and lodged the F.I.R, the motive for committing the offence stated as enmity on agricultural lands.

3. Learned counsel for applicants submits that the applicants are involved due to enmity which is admitted in the FIR: that though there are allegations that Haji Muhammad received firearm injury but he was never appeared before the doctor nor any medical certificate is available in police file; that the offence for which applicants are charged does not fall within the prohibitory clause of Section 497 Cr.P.C: that seat of injuries is not mentioned by complainant; that all the Sections are bailable except Section 324, that police at the instance of complainant party is behind the applicants to arrest them only for humiliation in the eyes of public, that applicants are involved in this case with malafide intention. He lastly prayed for confirmation of bail to the applicants.

4. Learned counsel for complainant argued that names of applicants are mentioned in the FIR; that specific role has been assigned against the applicants for causing firearm injuries to the complainant party; that ocular evidence is supported by medical evidence; that grounds taken by applicants are of deeper appreciation of evidence which is not permissible at bail stage. Lastly he prayed for dismissal of bail application.

5. Learned DPG after verifying the police file stated that injuries are declared by doctor as Damiyah and are bailable; therefore, he has no objection if the bail of applicants is confirmed.

6. I have heard the arguments of learned counsel and perused the record.

7. Admittedly deeper appreciation of evidence is not required to decide the bail plea and material is to be assessed tentatively, the enmity is admitted by both the parties, the injuries declared by the doctor are bailable, allegedly injured Haji Khan was not appeared before the doctor which create serious doubt in the prosecution case, case has already been challaned and applicants are no more required for further investigation, the ingredients of Section 324 PPC are missing as none of the applicants repeated fire which shows their intention for committing murder of complainant party. Tentatively applicants have been able to make out their

case for confirmation of bail; therefore the interim pre-arrest bail granted to applicants namely Taj Muhammad, Soomar, Muhammad Bux alias Karo, Lal Bux and Ali Bux vide order dated: 04-07-2019 in Cr. Bail Application No. S-714 of 2019 and to applicant Abdul Rehman vide order dated 30.09.2019 in Cr. Bail Application No. S-944 of 2019 is hereby confirmed on the same terms and conditions.

8. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the right of either party at trial.

JUDGE

Karar\_hussain/PS\*