

IN THE HIGH COURT OF SINDH AT KARACHI

**Present:**

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Adnan Iqbal Chaudhry

**Criminal Bail Application No. 919 of 2021**

[Talha son of Liaquat Ali Pardar versus The State]

Applicant : Talha son of Liaquat Ali Pardar, through  
Mr. Javaid Ahmed Chhatari, Advocate.

Respondent : The State, through Mr. Ali Haider Saleem,  
Deputy Prosecutor General, Sindh.

Date of hearing : 09-06-2021

FIR No. 107/2021  
P.S. Nabi Bux, Karachi  
Sections 147, 148, 149, 324,  
186, 427, 337A(i) PPC,  
read with section 7 ATA

**ORDER**

**Adnan Iqbal Chaudhry J.** - The applicant/accused, Talha son of Liaquat Ali Pardar, seeks post-arrest bail in the crime above mentioned.

2. Per the FIR, there was a dispute between two groups over the use of a plot of land in a neighborhood of the old city area; that on 04-04-2021 around 17:45 hours, 400/500 persons of the rival groups converged on the disputed plot wanting to lead namaz thereat; that the crowd became charged when the complainant SI along with other police officers deployed thereat to avoid a law and order situation, asked them to disperse; that miscreants within the crowd resorted to stone-pelting and gun fire; that the police had to use tear gas to disperse the crowd; that in the stone-pelting, the complainant SI received injuries on the head and face, and the wind screen of the police mobile was shattered; that out of the miscreants who were firing, the police managed to apprehend the applicant who was

injured in the process; that the applicant was carrying a loaded 9mm pistol with 2 more rounds in the magazine, and a further 9mm magazine was found on his person, all of which were sealed on the spot along with the empties collected. Apart from the FIR above mentioned, the applicant was separately booked in FIR No. 108/2021 under section 23(1)(a) of the Sindh Arms Act, 2013.

3. Per the charge sheet, the applicant informed on interrogation that the firearm recovered from him was licensed to his brother-in-law, Shahzaib, who was unaware that the applicant had taken the firearm; that while the license in the name of Shahzaib was verified, the report from the FSL stated that some of the 9mm empties recovered from the crime scene matched the firearm recovered from the applicant; and that the applicant also disclosed that he was instigated to rioting by one Ilyas son of Moosa who had brought the applicant to the plot. While Ilyas is shown as absconder, two other persons were arrested during investigation, namely Sabir Baig and Mohammad Salim, who are presently on bail.

4. Heard the learned counsel and perused the record.

5. The version of the applicant as per the memo of petition is that:

*“2. That the present applicant is victim of the circumstances as the angry mob conducted attack as the under construction mosque of the present applicant and his relative of the community known as Salawat who severally maltreated the applicant with the hands of the angry mob of Beravelay Maslak consequently the present applicant became unconscious police rushed him to the hospital to save his life but the police showed his arrest in this case and foisted upon him a pistol.”*

In addition to the above, learned counsel for the applicant submitted that in the clash between rival groups, the applicant was not the aggressor but the injured; that the police mobile was not hit by any bullet, nor did any police officer or any other person suffer any firearm injury; and thus the case was one of further inquiry. He

submitted that since the co-accused, Sabir Baig and Mohammad Salim, had been granted bail, the applicant was entitled to the same.

6. From the FIR and para 2 of the petition reproduced above, it appears that the crowd that had converged at the plot belonged to two different religious sects laying claim to the use of the plot for congregation. The applicant acknowledges to belong to one such sect and acknowledges presence at the scene when the clash took place. Per the FIR, the miscreants within the crowd made gunfire, which act in the circumstances may well fall within sub-section (2)(d), (h) and/or (i) of section 6, read with section 7(1)(b) and/or (h) of the ATA, 1997, which aspect has yet to be determined by the trial court. The applicant was then apprehended from the crime scene brandishing a loaded 9mm pistol. Per the charge sheet, empties recovered from the crime scene match the firearm. That, coupled with the fact that the firearm was licensed to a person known to the applicant, which fact has not been denied before us, lends credence to the recovery made from the applicant. Therefore, at this stage, the allegation that the firearm was foisted on the applicant, does not inspire confidence. The bail granted to Sabir Baig and Mohammad Salim is of no help to the applicant as those persons were neither nominated in the FIR nor arrested from the crime scene.

7. In view of the foregoing, the applicant has not been able to make out a case for bail at this stage. The bail application is dismissed. Needless to state, that the observations herein are tentative, and nothing herein shall be construed to prejudice the case of the applicant at trial.

**JUDGE**

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