

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Misc. Appln. No. S – 155 of 2021

Date

Order with Signature of Hon’ble Judge

Fresh case

- 1. For orders on MA No.1609/2021 (U/A)
- 2. For orders on office objection at flag ‘A’
- 3. For orders on MA No.1610/2021 (Ex.A)
- 4. For hearing of main case

22.03.2021

Syed Mujahid Ali Shah Advocate for the applicant/complainant

>>>>>>>..<<<<<<<<

Aftab Ahmed Gorar, J; By way of instant criminal miscellaneous application under Section 497(5) Cr.P.C, the applicant/complainant seeks cancellation of bail before arrest granted to the private respondents vide order dated 22.02.2021 by learned Additional Sessions Judge, Mirwah in Crime No.45 of 2021 for offences punishable under Sections 337-A(i), 337-F(i), F(v), H(ii), 114, 147, 148 and 506/2 PPC.

2. It is contended by learned counsel that the private respondents are nominated in the FIR with specific role that they interecepted the applicant/complainant party and in furtherance of their common object armed with Iron rods, lathi, pistols and repeaters have attacked upon the applicant/complainant party and caused Iron rod and lathi blows to injured Saith Ali on different parts of his body; that the delay, if any, caused in lodgment of the FIR has been explained properly by the applicant/complainant; that the version as setout in the FIR is fully supported by the prosecution witnesses in their 161 Cr.P.C statements; that there is no malafide on the part of the applicant/complainant to implicate the private respondents in a false case; that the learned Additional Sessions Judge, Mirwah has granted extra-ordinary concession of pre-arrest bail to

the private respondents for which they were not deserving. He lastly prayed that the pre-arrest bail granted to the private respondents by the learned Additional Sessions Judge, Mirwah may be set-aside and they may be remanded to jail custody.

3. I have heard the learned counsel for the applicant/complainant and perused the record. Admittedly, the names of the private respondents are appearing in the FIR. The Sections applied in the FIR are bailable except Sections 506/2 and 337-F(v) PPC, which do not fall within the prohibitory clause of Section 497 Cr.P.C. Admittedly, there is delay of 06 (six) days in lodgment of the FIR, which has not been properly explained by the applicant/complainant, as such false implication of the private respondents / accused after due deliberation and consultation cannot be ruled out. It is also a matter of fact that the parties are disputing each other over the property. On perusal of impugned bail grant order, it is evident that there are counter FIRs lodged by the parties against each other. In such a situation, the learned Additional Sessions Judge, Mirwah was justified to grant bail before arrest to the private respondents / accused, as they proved malafides on the part of the applicant/complainant, which is basis ingredient for grant of bail before arrest. Accordingly, the instant criminal miscellaneous application is dismissed in *limine*. The observations made herein above are tentative in nature and will not prejudice the case of either party at trial.

Judge