

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
Cr. Bail Application No.S- 1220 of 2022

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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25.11.2022.

Barrister Muhammad Azmatullah Channa, Advocate for applicants alongwith applicants (on bail).

Ms. Sana Memon, A.P.G for State.

Complainant Wahid Bux alongwith injured Ali are present in person.

**ORDER**

**Muhammad Saleem Jessar, J.-** Through instant application, applicants Mour Khan, Zulfiqar Ali and Gulzar seek their admission on pre-arrest bail in Crime No.30 of 2022 registered at P.S Rukkan under Sections 324, 337-A(iii), 337-A(iv), 147, 148, 149, 504, 337-H(ii) PPC.

2. After registration of case, police have submitted challan which is now pending for trial before the Court of Sessions Dadu (Re-The State v. Peer Bux and others). Applicants preferred Criminal Bail Application No.1571 of 2022 before the Court of Sessions, Dadu wherefrom it was assigned to Additional Sessions Judge-IV, Dadu, who after hearing the parties, declined their request to grant pre-arrest bail vide his order dated 28.10.2022. Hence this bail application.

3. Brief facts of the prosecution case are that one Wahid Bux Bozdar lodged FIR on 12.10.2022, at 1400 hours at P.S Rukkan, wherein alleged that on 20.8.2022 he alongwith with brother Hamal, and Nephews Ali and Javed were available in the house, where they came to know that Mour Panwhar and others are flowing rainy water towards

his house. On hearing he alongwith brother and nephews went there at about 2.00 p.m they noticed accused Mour armed with repeater, zulfiqar with DBBL Gun, Gulzar with SBBL gun, Peera having rifle, Ariz Muhammad having pistol were flowing rainy water towards their house, to whom he restrained on that accused abused them in the meanwhile accused Mour and others made firing and beaten them, in the meanwhile accused Mour fired repeater shot on his nephew Ali with intention to kill him which hit him on his right hand finger, accused Zaulfiqar fired from his DBBL gun which hit Ali on his left feet, accused Gulzar made gun fire upon his brother Hamal which hit on his right leg accused Peeral fired from his rifle which hit on his nephew below left eye they raised cries which attracted to co-villagers on seeing them coming accused person went away while making aerial firing. After Departure of accused he referred the injured to Civil hospital Dadu and after getting treatment he filed application u/s 22-A & B Cr.Pc before the court of law, which was allowed and on the order of Honorable Court his FIR was registered.

4. Learned counsel for applicants submits that there are counter cases between the parties and prior to this applicant Mour Khan got registered FIR No.26/2022 with PS Rukkan on 07.10.2022 u/s 324, 337-A(i), 337-A(iv), 337-F(vi), 147, 148, 149, 427, 504, 337-H(ii) PPC whereas instant FIR was lodged by present complainant on 12.10.2022 with delay of about five days from their FIR. He next submits that though the applicants have been assigned specific role of causing firearm injuries to injured PWs Hamal, Ali and Javed yet they have not repeated the fire shots which show that the applicants had no intention to commit their Qatl-e-Amd. He next submits that the injuries allegedly sustained

by PWs on different parts of their bodies are on non-vital parts and per medicolegal certificate same have not been declared by medicolegal officer to be detrimental to their lives. He further submits that in cross case only complainant of this case has been bailed out while remaining 08 nominated accused are still absconders and they are also involved in series of the criminal cases. In support of his contention learned counsel has placed reliance upon the case of Khalil Ahmed Soomro v. The State (PLD 2017 Supreme Court 730). Hence submits that by considering the above circumstances of the case, the applicants may be granted pre-arrest bail.

5. On the other hand, learned A.P.G appearing for State opposes the bail application on the ground that applicants are nominated under FIR besides have been assigned specific role of causing firearm injuries to injured therefore, are not entitled for concession of bail. She; however, could not controvert the fact that applicant Mour had also got registered FIR against the complainant party and injuries allegedly attributed have not been proved to be detrimental to the lives of injured PWs.

6. Heard. Record perused.

7. Admittedly, the incident as mentioned in the FIR had occurred on 20.08.2022 whereas FIR was lodged on 12.10.2022 i.e. after the delay of about 53 days though the distance between place of incident and the police station is only 7/8 kilometers and no plausible explanation has been furnished by prosecution for such an inordinate delay. No doubt the applicants have been assigned specific role of causing firearm injuries to injured, suffice it to say instead of the fact that applicants were allegedly armed with sophisticated weapons and the complainant party,

as claimed by them, was empty handed and were completely upon the mercy of applicants yet they had not sustained any grievous injury or the injury on their vital part of body through which it could be deduced that the applicants had any intention to commit their Qatl-e-Amd. In this regard reliance can be placed upon the case of Master Dur Muhammad and 2 others v. The State (1994 P.Cr.L.J 1769). There are counter cases between the parties and the applicants party had also filed FIR No.26 of 2022 on 17.10.2022 much prior to lodgment of instant FIR therefore, malafide on the part of complainant is obvious hence basic ingredients for grant of pre-arrest as has been enshrined by Honourable Supreme Court in the case of Rana Muhammad Arshad v. Muhammad Rafique and another (PLD 2009 Supreme Court 427) are fully attracted in this case. The case has been challaned and applicants are no more required for the purpose of investigation or interrogation beside have joined the trial proceedings without misusing the concession extended to them by this Court. As stated the case is now pending for trial and is fixed on 29.11.2022 before the Court of Sessions at Daud. In the circumstances and in view of dicta laid down by Honourable Supreme Court of Pakistan in the case of Khalil Ahmed Soomro (supra), the case against applicants requires further inquiry as envisaged under sub-section (2) to Section 497 Cr.P.C. Accordingly, instant bail application is therefore, allowed and the interim pre-arrest bail already granted to applicants on 11.11.2022 is hereby confirmed on same terms and conditions. However, applicants are directed to continue their appearance before the trial Court, without fail.

JUDGE

