

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Bail Application No.S-1291 of 2022

Cr. Bail Application No.S-1343 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGE(S)**

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16.12.2022.

Mr. Sajjad Ali Gopang, Advocate for applicants alongwith applicants (on bail).

Mr. Abdul Waheed Bijarani, Assistant P.G.

Complainant despite notice is called absent.

**ORDER**

***Muhammad Saleem Jessar, J,*** - By this common order, I propose to dispose of above mentioned criminal bail applications filed by the applicants as the course of both applications is same arising out of Crime No.17 of 2022 registered with P.S Jhalo for offences under Sections 337-A(i), 337-F(vi), 337-H(ii), 337-L(ii), 452, 114, 504, 147, 148, 149 PPC. Prior to filing of these applications, the applicants had filed Bail Application No.1575 of 2022 before the Court of Sessions at Dadu, where after hearing the parties, their request for bail was declined vide impugned order dated 28.10.2022; hence, these applications.

2. Since the facts of prosecution case are already mentioned in F.I.R as well impugned order passed by learned Additional Sessions Judge-I, Dadu; therefore, there is no need to reproduce the same in order to save precious time of the Court.

3. Learned Counsel for applicants submits that applicants are innocent and they have been falsely implicated in this case by complainant with ulterior motives. He next submits that applicant Khuda Bux was with gun and he only made aerial firing; applicant Maqsood was with hatchet and caused wrong side hatchet blow to Mst. Parveen which landed on her right arm; applicant Abdul Sameed caused iron rod blow to Mst. Amna at her back and right eye; applicant Muhammad Nawaz caused Danda blow to injured PW Khair Muhammad; applicant Zulfiqar Ali caused Danda blow to Mst. Sahib Khatoon (complainant) on her right arm and applicant Muhammad Saleh caused pistol blow to Khair Muhammad which landed on his face and eye. He;

therefore, submits that all the injuries allegedly sustained by injured / PWs are on their non-vital parts of body. As far as the injuries allegedly sustained by injured PW Khair Muhammad, Mst. Amna and Mst. Parveen are not shown to be grievous in nature; hence, case against applicants requires further inquiry. He further submits that prior to this incident, applicant Abdul Sameed had registered F.I.R No.14 of 2022 with P.S Jhalo against sons of complainant in which they are absconding; however, in order to exert illegal pressure upon the applicants, so that they may not pursue their case, the instant F.I.R has been lodged with delay of about 12 days from earlier F.I.R lodged by the applicants party; hence, case against them requires further inquiry.

4. Learned Assistant P.G Sindh opposes the bail application on the ground that all the accused have been assigned specific role of causing injuries to injured PWs; therefore, they are not entitled for the relief being sought by them. He; however, could not controvert the fact that injuries sustained by the injured PWs are bailable and do not exceed the limits of prohibitory clause of Section 497 Cr.P.C. Learned A.P.G also could not controvert the fact that prior to this incident the accused party had also filed F.I.R against complainant party at same police station which is still pending adjudication and the accused nominated therein have not yet sought any bail or relief from the Court of Law.

5. Heard and perused the record.

6. Admittedly, F.I.R is delayed for about 14 days and no plausible explanation has been furnished by the prosecution for such inordinate delay. The delay in criminal cases has always been deprecated by the superior Courts and has been held to be fatal for the prosecution particularly at bail stage. Moreover, the applicant Abdul Sameed has also got F.I.R registered against complainant party prior to lodgment of instant F.I.R; hence, it is evident that complainant party has not come with its clean hands and the plea taken by the accused to the effect that complainant in order to exert illegal pressure upon applicants so that they may not pursue their case, instant F.I.R has been registered, carries much weight. The case is being tried by learned Magistrate, where after recording evidence if prosecution may succeed to prove the charge against the accused, even then punishment of more than three years cannot be visualized.

7. In the circumstances and in view of above, it can safely be held that applicants have successfully made out their good *prima facie* case for pre-arrest bail as their case requires further inquiry within the meaning of sub-section (2) to Section 497 Cr.P.C. Consequently, these bail applications are allowed. The interim pre-arrest bail already granted to applicants on 28.11.2022 & 09.12.2022 is hereby confirmed on same terms and conditions. The applicants present are directed to continue their appearance before the trial Court till final decision of the main case.

8. It is pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE

Shahid