

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 1839 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**14-02-2023**

Mr. Abdul Hakeem Shar, Advocates a/w applicant.

Mr. Ghulam Rasool Soho, Advocate for complainant.

Mr. Talib Ali Memon, A.P.G.

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**Omar Sial, J:** Samar Ali has sought pre-arrest bail in crime number 101 of 2022 registered under sections 324, 114, 147, 148, 149 and 504 P.P.C. at the Mirpur Batoro police station. His earlier bail application was dismissed on 15.07.2022 by the learned Additional Sessions Judge, Sujawal.

2. Mohammad Rafiq Mallah complained to the police that he had a dispute over land with one Arab Sheedee and in that connection civil suits were pending adjudication. On 02.07.2022 armed persons had come to his otaq, out of which one was the applicant. On the instigation of Arab Sheedee, some of the intruders had caught hold of the complainant's cousin by the name of Allah Dino whereas the applicant shot Allah Dino on his chest. It appears that Allah Dino has not died to date.

3. Learned counsel for the applicant has argued that the applicant was not even present on the spot and that there was a civil dispute between the complainant and Arab Sheedee. He further argued that Arab Sheedee had been given bail hence the applicant too should be given the concession on grounds of consistency. To the contrary the learned APG, who was assisted by the learned counsel or the complainant, supported the impugned order and stated that 10 empties were recovered from the place of incident but as the applicant did not join investigation recovery of the crime weapon is yet to be made. The learned APG was also of the view that the ground of

consistency was not available to the applicant and that there was no reason for a false implication.

4. I have heard the learned counsels as well as the learned APG. My observations and findings are as follows.

5. The injured Allah Dino has recorded his statement in which he has implicated the applicant of shooting at him. Medical evidence shows that the fire hit the injured on the right side of the chest, thus prima facie a case under section 324 P.P.C. was made out. No bad blood between the applicant and the complainant was agitated by the learned counsel nor is any prima facie borne out from the record. The complainant had only identified Arab Sheedee as the person with whom a dispute allegedly existed. Upon a tentative assessment I do not see any malafide behind the nomination of the applicant in the alleged crime.

6. I am inclined to agree with the learned APG that the ground of consistency is not applicable as Arab Sheedee was assigned the role of instigation whereas most specifically the witnesses have named the applicant as the shooter. It seems odd and unnatural that in a false implication the complainant would spare Arab Sheedee from a direct role in the attack and instead nominate the applicant as the shooter. Of course it is the learned trial court which will take the final decision on the culpability or otherwise of the applicant after it has had an opportunity to review the evidence led at trial. The fact that the applicant did not co-operate with the investigation after seeking interim pre-arrest bail is also a ground which in my mind disentitles the applicant from the concession of bail.

7. In view of the above, the interim pre-arrest bail granted earlier is recalled and the application dismissed.

JUDGE