

learned APG has been confronted as to any record or history of the present Applicant being involved in any other crime and he has candidly conceded under instructions that there is no other case registered against the present Applicant.

- v. As per prosecutions own case, the Applicant was not involved in the alleged firing on the Police party, whereas, in the FIR there are numerous sections under which the Applicant has been charged including Section 7 of the ATA, Act. The involvement of the present Applicant in the alleged crime barring his act of common intention under Section 34 PPC is yet to be determined and is a case of further inquiry into his alleged guilt.
- vi. It is settled law that while considering a bail application it is the lesser punishment which has to be considered, and on this count also, the present Applicant's case does not fall within the prohibitory clause. Reliance in this regard may be placed on the cases reported as **Shehzore v The State (2006 YLR 3167)** and **Muhammad Akhtar v The State (1984 PCr.L.J 2340) & Arshad Mahmood v The State (1985 PCr.L.J 2048)**.
- vii. It is also settled that liberty of a person is a precious right, which cannot be taken away unless there are exceptional grounds to do so. Merely on the basis of bald allegations, the liberty of a person cannot be curtailed. In these circumstances, the petitioner has made out a case for bail as his case squarely falls within the purview of Section 497(2) Cr.P.C. entitling for further inquiry into his guilt, which even otherwise does not fall within the prohibitory clause. Grant of bail in such like cases is a rule whereas refusal is mere an exception.

In view of the above, the Applicant was admitted to post arrest bail by means of a short order on 21.06.2023 on furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. in the like amount to the satisfaction of the trial Court and these are the reasons thereof. It is needless to state that the above observations are tentative and shall not have any bearing on the trial of the case which has to proceed on its own and in accordance with law.

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