

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. B.A Nos. S – 281 & 282 of 2023.

Date	Order with signature of Judge
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For Hearing of bail application.

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19.06.2023.

Mr.Rukhsar Ahmed Junejo Advocate for applicants.

Mr.Shafi Muhammad Mahar DPG.

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ORDER.

AMJAD ALI BOHIO, J:-By this common order I intend to dispose of the Criminal Bail Application No. S-281 of 2023 arising out of Crime No.16/2023 u/s 324, 353, 395, 148, 149, PPC and Criminal Bail Application No.S-282 of 2023 arising out of Crime No.17/2023 u/s 24 Sindh Arms Act, 2013 both registered at Police Station, Piryaloi, District Khairpur.

2. These bail applications have been preferred after dismissal of the bail applications vide order dated 16.03.2023 passed by the Court of learned Additional Sessions Judge-IV, Khairpur in aforementioned cases.

3. The facts of prosecution case are mentioned in the FIR attached with the memo of bail applications and the same are not to be reproduced in view of the case of Muhammad Shakeel v The State (P L D 2014 S.C. 458).

4. Heard and perused the record.

5. Learned counsel for the applicant/accused has contended that the applicant/accused is innocent and has falsely been involved in this case by the police with malafide intention and ulterior motive. He further contended that none from the police party sustained any fire arm injury during encounter which continued for about 05 minutes, therefore, case requires further enquiry. He further added that all the witnesses are police officials and despite advance information no body from private person was taken as witness or acted as mashir. Lastly he prayed for grant of bail.

6. Learned DPG for the State, on the other hand, has opposed the grant of bail to the applicant/accused and has contended that the present accused alongwith his companions duly armed with deadly weapons had assaulted upon the police party and the present applicant also received injury during encounter, therefore, he does not deserve the concession of bail.

7. It is strange to mention here that in the alleged encounter involving four culprits with whom the police party exchanged fire shots for a period of about 05 minutes as mentioned in the FIR but none from police party sustained any scratch or their vehicle was hit by single bullet particularly when the culprits initially fired upon the police party as per contents of FIR. But only the applicant/accused received the injury whereas the remaining accused fled away from scene of the offence, which at this stage requires for further enquiry as contemplated u/s 497, Cr.P.C and this riddle can be answered after holding trial of the case.

8. In this respect, I am fortified with the verdict reported in case of Qurban Ali and another v The State (2006 M L D 530), wherein it is held that it was strange to note that encounter involving three culprits and a police party consisting of about eight police personnel and specially when such firing was initiated by the culprits, none from the police party received any injury nor their vehicle was hit by

a single bullet whereas only accused/applicant received fire arm injury over his right calf; and it was only their motorcycle and gun that was hit bullet.

9. Furthermore, as per FIR the accused/applicant sustained fire arm injury over calf of his right leg and it is a case of police encounter. Mostly, culprits who are shown to have been arrested at the time of such like incident they usually receive injury over their leg, as such the case of applicant/accused requires further enquiry. All the witnesses are police officials and none from public was associated as witness of incident. In these circumstances, the applicant/accused Aijaz Ali son of Saeed Khan Bozdar is admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) only in each case mentioned above and P.R bond in the like amount to the satisfaction of the trial Court.

JUDGE

Akber.