

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail App. No. S – 443 of 2022

Date of hearing	Order with signature of Judge
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For hearing of bail application

1. For orders on office objections at Flag-A
2. For hearing of bail application

04.09.2023

Mr. Muhammad Ali Napar, Advocate for applicants along with applicants who has filed statement with some documents.

M/s Ali Gul Abbasi and Muhammad Zuhaib Azam Rajput, Advocates for complainant.

Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – On account of previous enmity, allegedly, applicants armed with firearm weapons along with co-accused came at the *Otaq* of complainant on 11.06.2022 at 0330 hours and fired upon the complainant party injuring three persons critically: complainant, his father Abdul Sattar and brother Abdul Musawir. Abdul Sattar had received six firearm injuries, Abdul Musawir two injuries and complainant one injury.

2. The arguments in defence for pre-arrest bail are that there is a difference between number of injuries in Provisional Medico Legal Certificate and Final Medico Legal Certificate; the injuries do not fall within prohibitory clause of Section 497(i), Cr.P.C; this case is a result of a counter case registered by applicants' party. The injured Abdul Sattar has not taken the names of applicants Ameer Ahmed and Ghulam Hussain in his 161, Cr.P.C. statement; although applicants Ghulam Hussain and Ameer Ahmed are assigned the role of firing at Abdul Sattar, but seat of injury is not disclosed; the medical certificates have been challenged before the Medical Board, but due to absence of Medico Legal Officer, the final opinion of the Board has not come on record. Learned Counsel has relied upon the cases of Muhammad Shahzad Siddique v. The State and

another (PLD 2009 Supreme Court 58), Muhammad Ali and 3 others v. The State (2012 MLD 1466), Khalid Mehmood and another v. Muhammad Kashif Rasool and others (2013 SCMR 1415), Gul Muhammad v. The State (2023 SCMR 857) and Jamaluddin and another v. The State (2023 SCMR 1243).

3. On the other hand, learned Counsel for complainant and Additional Prosecutor General have opposed bail to the applicants stating specific role assigned to them.

4. I have considered submissions of the parties and perused material available on record including case laws cited at bar. Applicants are specially mentioned in FIR to have come at the *Otaq* of the complainant duly armed with weapons and fired directly at the complainant party, injuring at least three persons. The injuries mentioned in FIR are supported by the Medico Legal Certificates and the Doctor has opined that these injuries have been caused from the firearms. The incident is further, *prima facie*, supported by 161, Cr.P.C. statements of witnesses and by relevant memo. The discrepancies pointed out in defence are not material firstly and secondly cannot be appreciated at bail stage as the same require deeper appreciation of evidence, which can only be undertaken at the stage of trial.

5. It is also pointed out that complainant and applicants are related inter se; in the circumstances, false implication by the complainant is a farfetched idea, and cannot be ascribed to him. Insofar as the contention of counter case is concerned, I have read the order granting bail to the accused in that case. It is mainly based on the findings that FIR was registered after delay of so many months and there is suspicion shown by the Medical Officer that injuries could be self-suffered. There is a marked distinction between the case registered by the applicants' party against the

complainant and the case in hand. Therefore, such ground is not applicable, *prima facie*, in the case of applicants either. No case for extraordinary concession of pre-arrest bail is made out. Therefore, this application does not merit any consideration. The case law relied upon by learned Counsel for applicants are distinguishable and not applicable in this case.

6. Accordingly, this bail application is **dismissed** and ad-interim pre-arrest bail earlier granted to applicants by this Court vide order dated 15.09.2022 is hereby recalled.

7. The observations, as above, are tentative in nature and not meant to affect merits of the case before the trial Court.

Abdul Basit

J U D G E