

*Order Sheet*

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Appln: No.S-886 of 2023

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DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For orders on office objection  
For hearing of main case

**11.09.2023**

Agha Abdul Nabi advocate for the applicants.  
Ms. Rameshan Oad, A.P.G. for the State.  
Mr. Ghulamullah Chang advocate for the complainant.

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**ZULFIQAR ALI SANGI, J** :- Through instant bail application, applicants Naeem Khan, Afzal Khan, Shah Zaman, Khan Muhammad Sulleman, Jalal Khan, Nawaz Khan, Momin Khan, Ibrahim Khan, Sehat Malook and Doulat Khan seek their post arrest bail in FIR being Crime No.100 of 2023, registered at PS Bhattai Nagar Hyderabad for offences under sections 324, 506(2), 147, 148, 149, 337-H(ii), 337-A(i)(ii), 337-F(i), 337-L(ii), 337-F(iv), 337-F(vi), 337-ii(N), PPC. After their bail application was declined by learned trial Court vide order dated 10.08.2023.

2. Relevant facts of the prosecution case are that on 20.06.2023 at 0700 hours, applicants/accused along with co-accused and 15 unknown persons duly armed with different kind of substance, pistol, repeater, iron rod, hatchet, wrench panna, bricks, belcha, tikam and lathies attacked upon the complainant party by saying that earlier they have not given the cross to their tractor trolley and caused injuries to the complainant party. Accordingly, FIR was lodged as stated above.

3. It is contended by learned counsel for applicants that applicants being innocent have been falsely implicated in this case by the complainant with malafide intention; that this case is a counter blast of case being FIR No.172/2023 registered at PS Jamshoro by co-accused Ibrahim Khan against complainant party; that there is nothing to show that they caused any injury to them with intention to commit murder of complainant, therefore, section 324, PPC is not applicable; that contents of FIR are not fully supported by the PWs in their 161, Cr.P.C. statements; however, they have given another version in their statements by contradicting the FIR; that in FIR, no

specific role has been assigned to any of the accused with regard to specific injuries to injured; that in FIR, a bullet injury has been caused to have been shown by PW Khuda Nazar on his left leg, but in 161 Cr.P.C. statement, he has not mentioned about any bullet injury; that in mashirnama of place of incident, no recovery has been shown nor empty is recovered from the spot; that the role attributed to one of the accused in FIR namely Nawab Khan having bricks in his hand, but it is surprising to note that he died in the year 2010. He next submits that the case has already been challaned before the competent Court of law and applicants are no more required by the police for further investigation. In these circumstances, learned counsel for the applicants prayed that the applicants may be enlarged on bail. In support of his contention, learned counsel has relied upon 2023 SCMR 1397, 2022 P.Cr.L.J Note-33 (Sindh) and 2021 MLD 2106 (Sindh).

4. On the other hand, learned counsel for the complainant as well as learned Asstt. P.G opposed the grant of bail to the applicants on the grounds that each witness in their 161 Cr.P.C. supported the prosecution case; however, they both concede that they are not in line with the FIR. The medical evidence is fully supported with the version of complainant party, therefore, they are not entitled for post arrest bail.

5. Heard learned counsel for the parties and have perused the material available on record with their able assistance.

6. The background of the case is that the complainant and accused party have become at loggerhead over a crossing of vehicle / tractor trolley on the road to each other. The claim of the complainant is that due to this reason, accused had attached upon the complainant party and made them injured, as a result thereof, complainant lodged instant FIR ; and the accused party had also lodged FIR against the complainant party. It is a fact that the FIR is belated by 16 hours, which has not been plausibly explained by the complainant party, as the police station is just 1 km away from the place of incident. As per FIR, PW Khuda Nazar received firearm injuries, however, he has not supported such version in 161 Cr.P.C. statements. It transpired from the contents of FIR that there are general allegations against the applicants and no specific role that which accused caused injuries to which injured PWs as have been given in the FIR and the medical

certificate is challenged by the accused party before the medical board. By not mentioning specific words in the FIR that injuries were caused with intention to commit a murder doubts about the applicability of section 324, PPC and same is to be decided by the trial Court after recording evidence of the parties. Counter FIR is on record wherein it is stated that attack was made by the complainant party at the house of applicants/accused. There is nothing available on record to show that any incriminating article has been recovered from the applicants or record to show that they are previous convict or has been arrested in a case of similar nature in past. The offences with which the applicants are charged are not punishable with death or imprisonment for life. The applicants are behind the bar since their arrest and challan of the case has already been submitted before the competent Court of law, hence they are no more required by the police for further investigation. At bail stage, tentative assessment is to be made and deeper appreciation of evidence is not permitted.

7. In view of above facts and the circumstances, I am of the view that the applicants have made out a case of further inquiry entitling them for bail. Resultantly, the instant bail application is allowed and applicants are admitted to post arrest bail in the sum of Rs.50,000/- (Rupees fifty thousand) each and PR bonds in the like amount, to the satisfaction of learned trial Court.

8. The observations made herein above are tentative in nature and shall not prejudice the case of either party at the time of trial.

9. In the above terms, this bail application stands disposed off.

JUDGE