

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Application No.S-774 of 2024

16.09.2024

Mr. Anil Kumar Rathore, Advocate for applicant.

Ms. Sana Memon, Asst. Prosecutor General, Sindh for State.

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ORDER

ZAFAR AHMED RAJPUT, J:- Through this Cr. Bail Application, the applicant Shahid @ Misri Solangi s/o Muhammad Rahim, seeks pre-arrest bail in crime No.142 of 2024, registered at PS Husri District Hyderabad, u/s 324, 353, 34 PPC. His earlier bail application bearing No.1771 of 2024 was rejected by the learned 9th Additional Sessions Judge, Hyderabad, vide order dated 13.07.2024. The applicant was admitted to ad-interim bail by this Court, vide order dated 15.07.2024, now he seeks confirmation of his interim bail.

2- Briefly stated facts of the case as disclosed in the aforementioned F.I.R are that on 30.06.2024, a police party headed by SIP Ghulam Hussain Solangi during patrolling reached Tando Fazal Road near Village Allah Dino Machhi at about 0010 hours, where they saw three persons on a motorcycle with intention to commit any offence, who on seeing police party, started firing upon them with intention to cause their Qatal-e-Amid and deterred them (police party) from discharging their lawful duties. The police retaliated and in result thereof, one of the accused fell down while rest of the two accused made their escape good from the occurrence. The arrested accused disclosed his name as Murad s/o Sher Muhammad Rind and disclosed the names of absconding accused as Shahid @ Misri and Imran Machhi. Thereafter, the complainant came at PS and lodged instant F.I.R.

3- Heard and record perused.

4- Manifestly the allegations against the applicant are general in nature and ineffective firing is alleged. Admittedly the alleged encounter between police and accused continued for about 2/3 minutes but it is surprising to note that nobody from police party sustained a single injury nor any scratch to government vehicle is stated. It is also an admitted position that the alleged incident had taken place at Tando Fazal Road near Village Allah Dino Machhi, which was accessible to general public but police failed to associate any independent person from locality to act as mashir as required under the mandatory provision of section 103 Cr.P.C. All prosecution witnesses are police officials, therefore, there is no apprehension of tempering with the prosecution evidence. Offence under section 353 PPC is bailable while applicability of section 324 PPC is to be determined at the trial hence, the case of applicant is fit for 'further inquiry.'

5- In view of the above, I am of the opinion that applicant has established his case for confirmation of interim pre-arrest bail granted to him by this Court. Accordingly, the bail application is allowed and the interim pre-arrest bail earlier granted to applicant vide order dated 15.07.2024 is confirmed on same terms and conditions.

6- Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case applicant in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

JUDGE

Hafiz Fahad