

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1832 of 2024

<i>Date</i>	<i>Order with signature of Judge</i>
Applicant 1. Waseem Abbas son of Intzar Ali 2. Shahid Ali son of Maqbool Hussain (present on bail)	: through Mr. Abdul Qadir Khaskheli, Adv.
The State	: Through Mr. Khadim Hussain, Addl. Prosecutor General, Sindh.
Complainant Sawan son of Ramoon	: through Mr. Abid Mehmood Arain, Adv.
Date of hearing	: 10.10.2024
Date of order	: 10.10.2024

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicants Waseem Abbas and Shahid Ali seek their admission to pre-arrest bail in Crime No.157 of 2024 registered with Police Station Sujawal, for the offences punishable to Sections 324, 427, 337-H(ii) & 35 PPC. The case has been challaned which is now pending for trial before the Court of Consumer Protection Court/Judicial Magistrate, Sujawal. The applicant preferred Criminal Bail Application No.45 of 2024 before the Court of Sessions Judge, Sujawal, who after due notice and hearing the parties, declined the request so made vide order dated 29.07.2024; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submits that role attributed to applicants is, accused Waseem Abbas caused gunshot injuries to injured PWs Anwar and Ghualm Qadir, while accused Shahid caused gunshot injures to injured PWs Bashir Abro and Sharif, which landed on their legs and said injuries have been declared by the MLO to be publishable to Section 337-F(i) PPC and carries punishment of three years. As far as, section 324 PPC is concerned, learned counsel submits that accused have not repeated the injury, therefore, their intention with regard to commission of Qatl-i-Amd is yet to be established by the prosecution after recording evidence of its witnesses. He, therefore, prays for grant of bail.

4. On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that accused are nominated in the FIR; besides, section 324 PPC has been applied under the FIR, therefore, they are not entitled for the bail.

5. Learned counsel for the complainant also opposes the bail application on the ground that both accused are not only nominated in the FIR but have been assigned role of causing fire arm injuries to injured PWs Anwar, Ghulam Qadir, Bashir Abro and Sharif, therefore, they are not entitled for the bail.

6. **Heard arguments and perused record.** No doubt, the applicants are nominated in the FIR; however, role attributed to them is, they allegedly caused gunshot injuries to injured Anwar, Ghulam Qadir, Bashir Abro and Sharif which landed on their legs and that being non-vital part of their body(ies), has not been declared by the MLO to be fatal or dangerous for their lives. The punishment provided by the law for said injury(ies) is three years which does not come under the ambit of prohibition as contained under Section 497 Cr.P.C. Moreover, there is no allegation of repetition of injury, hence, question of committing Qatl-i-Amd of injured PWs, is yet to be established by the prosecution after recording evidence of its witnesses and then the trial Court has to determine it in accordance with law.

7. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *KHALEEL AHMED SOOMRO and others Versus The STATE (PLD 2017 SC 730)*, case against applicants requires further inquiry within meaning of subsection (2) to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicants **Waseem Abbas son of Intzar Ali and Shahid Ali son of Maqbool Hussain** on 15.08.2024 is hereby confirmed on same terms and conditions.

8. Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court would be competent to take legal action against them as well to their surety(ies) in terms of Section 514 Cr.PC.

9. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE

Zulfiqar/P.A