

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Cr. Bail Application No. S-304 of 2024

Cr. Bail Application No. S-423 of 2024

Mr. Mehboob Ali Wassan, Advocate for applicants in both matters a/w applicant Rizwan Janwari.

Syed Sardar Ali Shah, Additional P.G for the State.

Date of hearing: **25-10-2024**

Date of order: **25-10-2024**

ORDER

ZULFIQAR ALI SANGI, J.- Applicant Panjal alias Pinyal (CrI.B.A.No.S-423 of 2024) seeks post-arrest bail while applicant Rizwan Janwari (CrI.B.A.No.S-304 of 2024) seeks pre-arrest bail in Crime No.229 of 2023, registered at P.S, Kotdiji, under sections 324, 147, 149 PPC after their bail pleas were declined by learned trial Court vide orders dated 16.05.2024 and 08.04.2024 respectively.

2. Facts of the prosecution case are already mentioned in FIR, therefore, there is no need to reproduce the same.

3. It is contended by learned counsel for the applicants that there appears enmity between the parties and the same is admitted in the FIR; that the applicants are related to one family, therefore, their names were mala fide mentioned in the FIR; that injuries received by PWs/injured are on non-vital part of body and offence does not within prohibitory clause of section 497CrPC; that all the PWs are related and are interested; therefore, applicants are entitled for concession of bail.

4. Learned Additional P.G for the State has opposed the bail on the ground that the applicants are nominated in FIR with specific role of causing firearm injuries to PWs/injured which have been certified by Medico-Legal Certificates, therefore, they are not entitled for any concession of bail. In support of his contentions, he has relied upon case reported as *Attaullah v. The State* (2024 PCr.LJ 940).

5. Heard learned counsel for the applicants as well learned APG and perused the material available on record. From perusal of record, it reflects that the incident took place on 21.11.2023 at 1200 hours, and the FIR was registered on the same day at 2300 hours; therefore, there is no chance of deliberation or consultation. Furthermore, perusal of FIR shows that applicant Rizwan has fired from his gun with intention to commit murder of father of complainant Jabal, who received fire arm injuries and applicant Panjal with intention to commit murder had fired from his pistol upon Javed Ali, brother of complainant, which hit him. The allegations made in the FIR are supported by witnesses in their statements recorded in terms of section 161 CrPC. Medical evidence also supports the case of prosecution.

6. Moreover, so far contention of learned counsel for applicants that injured had received firearm injuries on non-vital part of their body and fire was not repeated is concerned, such contention is without merit, as the case of applicants falls within mischief of section 324 PPC hit by prohibition. In the case of Shegab Muhammad v The State and others (2020 SCMR 1486), it is held by Hon'ble Supreme Court that once the trigger is pressed and the victim is effectively targeted, 'intention or knowledge' as contemplated by section 324 PPC is manifested; the course of a bullet is not controlled or steered by assailant's choice nor can he claim any premium for a poor marksmanship.

7. In the instant case, there appears sufficient material against the applicants to connect them with the commission of alleged offence. Result thereof, these bail applications are **dismissed** and the interim pre-arrest earlier granted to applicant Rizwan Janwari by this Court is hereby recalled. The observations made hereinabove are tentative and would not influence learned Trial Court at the time of deciding the case as the same are only for deciding this bail application.

Office to place a signed copy of this order in captioned connected matter.

JUDGE

AHMAD