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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Applications No. S-100 & 187 of 2021

Applicants in Cri. Bail Appln. No. S-100 of 2021

- (1). Nasarullah Jamali s/o Muhammad Bux
- (2). Abdul Hammed s/o Ghulam Hussain
- (3). Nazir Ahmed Jamali s/o Ghulam Nabi
- ✓(4). Yameen Khan Jamali s/o Allahdino

Mr. Habibullah G. Ghouri advocate, holding brief for
Mr. Syed Lal Shah, advocate for the applicants.

Applicant in Cri. Bail Appln. No. S-187 of 2021

Wazeer Jamali s/o Allahdino, through
Mr. Ashfaque Hussain Abro, advocate

Complainant in both Cri. Bail Applications

Shaique Ali Domki s/o Abdul Razzaque, through
M/s. Sher Ali Chandio and Liaquat Ali Deepar,
advocates

Respondent in both Cri. Bail Applications


The State, through Mr. Aitbar Ali Bullo, D.P.G.

Dates of hearing: 12.07.2021
Date of order: 12.07.2021

ORDER

ZAFAR AHMED RAJPUT, J:- By this common order, I intend to dispose of
above listed both bail applications as the same have arisen out of same Crime i.e.
F.I.R. No. 13 of 2021, registered at P.S K.N. Shah, Dist. Dadu, under sections 435,
147, 149, 504, 114 & 427, P.P.C.

2. Through criminal bail application No. S-100 of 2021, applicants/accused,
named-above, have sought pre-arrest bail in aforementioned crime. They were
admitted to interim pre-arrest bail by this Court, vide order dated 05.03.2021,
now they seek confirmation of the same. While, by means of criminal bail
application No. S-187 of 2021, applicant named-above seeks post-arrest bail.



Their earlier applications for grant of bail bearing No. 114 of 2021 and 386 of 2021, respectively, were heard and dismissed by the learned 1st Additional Sessions Judge, Mehar, vide orders dated 24.02.2021 and 26.04.2021.

3. Briefly stated facts of the prosecution case are that, on 22.01.2021 at 06:30 p.m., complainant Shaique Ali, a transporter, lodged the aforesaid F.I.R., alleging therein that, on 21.01.2021, he along with Ali Muhammad Jafri (*driver*), Humayoon (*munshi*) and Rind Ali (*helper*) took the passengers from Kashmore to Karachi on Domki Express Coach bearing registration No. LZJ-9803 and reached K.N. Shah bye-pass, near Taj Hotel, at about 01:00 p.m., where a person on motor-cycle came out and hit the bumper of the coach and injured sternly. The persons sitting in the hotel came out and took the injured to hospital. Due to fear of the mob, the passengers got down from the coach. Meanwhile, about twenty-five persons from village Karimdad Lund came there, they used abusive language. Out of them, the complainant identified nine accused persons, namely, (i) Najamuddin (2) Nasarullah (3) Hammed (4) Nazir (5) Wazir (6). Yameen (7) Waleed (8) Ghulam Abbas and (9) Arif Chandio, and on the instigation of all the accused persons, accused Najamuddin set the coach on fire and other accused persons also contributed equally by flaming the fire by plastic bags and bottles; resultantly, the said coach valued of Rs. 1,20,00,000/- burnt to ashes.

4. I have heard the learned counsel for the applicants/accused, complainant as well as D.P.G. and perused the material available on record with their assistance.

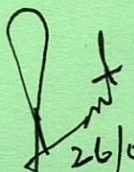
5. It appears from the tentative assessment of the record available with the prosecution that there is inordinate delay of twenty-nine hours in lodging of F.I.R., for that no plausible explanation has been furnished by the complainant; hence, consultation and deliberation for the false implication of applicants cannot be ruled out. It further appears that an F.I.R. bearing No. 16 of 2021 has been

lodged under section 320, 279 & 427, P.P.C. at the same police station for causing death of a young boy of the said village by hitting his motor-cycle. The maximum punishment for the alleged offence is seven years imprisonment under section 435, P.P.C., which does not fall within the prohibitory clause of section 497, Cr. P.C. The specific allegation of setting the coach on fire has been leveled against the co-accused Najamuddin; so far the case of present applicants is concerned, when no vital role has been attributed to them apart from that they were present at the spot in mob at the time of occurrence, or they instigated the said co-accused, the vicarious liability calls for further probe. Hence, the case of the applicants squarely falls within the ambit of further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C.

6. For the forgoing facts and reasons, interim pre-arrest bail granted to applicants (1). Nasarullah Jamali (2). Abdul Hammed (3). Nazir Ahmed Jamali and (4). Yameen Khan Jamali in Criminal Bail Application No. S-100 of 2021 vide order, dated 05.03.2021 is hereby confirmed on the same terms and conditions, while applicant Wazeer Jamali in Criminal Bail Application No. S-187 of 2021 is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- and P.R. Bond in the like amount to the satisfaction of the trial Court.

7. 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 applicants/accused on merit. In case the applicants/accused in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel their bail after issuing them the requisite notice.

7. Above are the reasons of my short order dated 12.07.2021.


26/07/2021
JUDGE