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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No. 200 of 2018

Date Order with Signature of Judge

For hearing of bail application.

17.09.2018.

Nemo for Applicant.
Mr. Sharafuddin Kaanhar, A.P.G for the State

Having been rejected his earlier application for grant of pre-arrest bail bearing No. 523 of 2018, vide order dated 20.04.2018, passed by the Court of VIth Addl. Sessions Judge, Larkana, applicant/accused Muhammad Ali alias Ahmed Ali s/o Lal Dino alias Manzoor Ahmed Mugheri, through instant criminal bail application seeks pre-arrest bail in Crime/F.I.R. No. 29/2018, registered at P.S Civil Line, under Section 221,223,224,225 & 225-A, P.P.C. The applicant was admitted to ad-interim bail by this Court vide order dated 03.05.2018, now the matter is fixed for confirmation of bail or otherwise.

2. It may be pertinent to mention here that on last date of hearing the counsel for the applicant was not in attendance and the matter was adjourned for today's date of hearing at the request of applicant with caution that in case counsel for the applicant fails to appear and proceed with the matter, the bail application shall be decided with the assistance of learned A.P.G.. Today the counsel for the applicant against chosen to remain absent.

3. Briefly stated facts of the prosecution case, as narrated in the F.I.R., are that on 28.02.2018, SIP Sikandar Ali Chandio, L.O of Police line, Larkana lodged aforementioned F.I.R. on behalf of the State, alleging therein that on the said day he, along with subordinate staff, proceeded from Police Line for checking the guard rooms and, at 0015 hours, reached UTP Jail Ward of Old Casualty Civil Hospital, Larkana where he found the gate of the Ward locked from outside and PC Muhammad Juman and Abdul Qadir were

sleeping on the chairs while accused prisoner, namely Ghulam Hussain s/o. Lal Dino alias Manzoor Ali Mugheri who was nominated in (1) Crime No. 147/2017, registered at P.S. Kamber Saddar under section 504, 506(2) P.P.C. (2) Crime No. 181/2017, registered at P.S. Kamber Saddar under section 324, P.P.C. and (3) Crime No. 188/2017, registered at P.S. Kamber City under section 302, 324, P.P.C. was not available. He then tried to rouse PC Muhammad Juman and Abdul Qadir from sleep, but they were unconscious. He then informed to his high ups as well as to the police station of the area and after obtaining letter for treatment brought PC Muhammad Juman and Abdul Qadir in Casualty where they after treatment gained their senses and disclosed that the nephew of accused Ghulam Hussain, namely Ahmed Ali Mugheri (present applicant) served them intoxicated juices and caused to escape said accused prisoner.

4. The applicant states that he is innocent and has falsely been implicated in the case by the police; that he has nothing to do with the alleged offence but the police officials who were negligent in performance of their duties falsely implicated him for ulterior motives.

5. On the other hand, learned A.P.G. opposes this application on the ground that the applicant rescued his brother Ghulam Hussain from police custody, who was lawfully detained in Jail Ward of Old Casualty Civil Hospital, Larkana. He added that rescued accused Ghulam Hussain is still absconder.

6. It appears from the tentative assessment of the material on record that the accused Ghulam Hussain, who was nominated in three F.I.Rs. including one lodged under section 302 P.P.C., was lawfully confined in judicial custody and detained in Jail Ward of Old Casualty Civil Hospital, Larkana but the applicant rescued him by offering intoxicated juices to guards on

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duty, which act of the applicant is an offence under section 225 P.P.C. punishable for seven years, which offence though does not fall within the prohibitory clause of section 497 Cr.P.C., but the manner in which the offence allegedly has been committed shows the intention and criminal design of the applicant.

7. There appears no special feature of the case entitling the applicant to grant of extra ordinary concession of pre-arrest bail. It is now settled principal of law that in order to justify the grant of anticipatory bail, the applicant is required to show that he apprehends his arrest on account of ulterior motives. One of the main considerations for grant of bail is whether the prosecution is motivated by malice so as to cause irreparable injury to citizen's reputation and liberty. The applicant approaching the Court of law for grant of anticipatory bail is required to show that he is falsely implicated for extraneous consideration and ulterior motives are behind his apprehended arrest. The applicant becomes entitled for this concession on fulfillment of these conditions. In the instant case, the applicant has remained unable to persuade me to hold that he had no concern with the alleged offence. Hence, in the instant case the pre-requisites for such concession i.e. malice and ulterior motives either on the part of the complainant or the police are conspicuously missing.

8. Resultantly, there being no merit in this criminal bail application, the same is dismissed and the interim pre-arrest bail allowed to the applicant is hereby recalled.


17/09/2018
JUDGE