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


Criminal Bail Application No. **S-553** of **2016**

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicants :	(i) Saeed Ahmed S/o. Mukhtiar Ahmed (ii) Altaf S/o. M. Sajjan (iii) Imdad Ali S/o. Bashir Ahmed (iv) Muhammad Ali S/o. Faiz Muhammad (v) Ahmed Ali S/o. Faiz Muhammad, through Mr. Sajid Hussain Mahessar, Advocate
Respondent :	The State, through Mr. Khadim Hussain Khoonharo, APG.
Complainant :	Hur S/o. Gada Hussain, through Miss. Shazia Surahio, Advocates -----
Date of Hearing :	20.11.2017
Date of Order :	20.11.2017 -----

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicants above-named seek pre-arrest bail in Crime No. 75 of 2016, registered at P.S. Faridabad, under Section 324, 504, 114, 148, 149, P.P.C. Their earlier application for grant of pre-arrest bail bearing No. 1555 of 2016 was heard and dismissed by the learned IInd Additional Sessions Judge, Meher, District Dadu, vide order dated 11.11.2016. They were admitted to ad-interim pre-arrest bail by this Court, vide order dated 18.11.2016.

2. Briefly stated, the facts of the case are that on 09.09.2016 at 2100 hours complainant Hur S/o. Gada Hussain lodged aforesaid F.I.R., alleging therein that some days back there was exchange of harsh words in between Mehboob Ali and Abdul Sattar on water rotation. On 08.09.2016, having heard that accused Abdul Sattar and others had caused firearms injuries to his relative Mehboob, he along



with his realties, namely, Imamuddin, Ali Dost, Dadan, Sattar and Raza Hussain was going there when at 06:30 p.m. they reached near hotel of Hidayatullah, (i) Manzoor S/o. Bux Ali armed with gun (ii) Ahmed Ali S/o. Muhabat armed with K.K. (iii) Abdul Sattar S/o. Manzoor armed with K.K. (iv) Allah Jurio S/o. Muhabat armed with pistol (v) Saeed Ahmed S/o. Mukhtiar armed with repeater (vi) Altaf S/o. Sajjan armed with K.K (vii) Munawar S/o. Bashir Ahmed armed with K.K (viii) Imdad S/o. Bashir Ahmed armed with repeater (ix) Muhammad Ali S/o. Faiz Muhammad empty handed and (x) Ahmed Ali S/o. Faiz Muhammad armed with K.K abused them and on the instigation of Manzoor Ali and Muhammad Ali, Abdul Sattar fired at Imamuddin with intention to commit his murder, which hit him on below right eye; Ahmed Ali fired at Ali Dost which hit him on right arm; Manzoor Ali fired at Dadan which hit him on back side of his body; Allah Jurio fired at Sattar which hit him on his left leg and Altaf fired at Raza Hussain which hit him at back of his left hand, they all raised cries and fell down; thereafter, accused persons went away.

3. Heard the arguments of leaned counsel for the parties and perused the material available on record.

4. It appears that there is delay of one day in lodging of F.I.R., for that no plausible explanation has been furnished by the complainant; therefore, consultation and deliberation for the false implication of applicants/accused cannot be ruled out. Only one fire has been attributed to applicants/accused Ahmed Ali and Altaf, which hit to Ali Dost at his right arm and to Raza Hussain which hit him at back of his left hand, respectively, which are non-vital part of their bodies and have been described as *Ghayr-jaiifah mutalahimah* and *Ghayr-jaiifah damiyah*, which are punishable under Section 337-F (iii) and 337-F (i), P.P.C. for imprisonment up to three and one year as *ta'zir*, respectively. The former does not fall within the prohibitory clause of section 497, Cr. P.C. and the latter is

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bailable under the schedule of offences. No rule has been attributed to applicants/accused Saeed Ahmed and Imdad Ali, while applicant/accused Muhammad Ali has been assigned the rule of instigator, Had it been intention of applicants/accused to kill the said injured members of complainant party then there would have been shooting at vital parts of his body, which was not done; thus, it is yet to be seen if the applicants/accused had any intention to kill the injured, as such, application of section 324 P.P.C. could only be determined at trial. So far the case of applicants/accused Saeed Ahmed, Imdad Ali and Muhammad Ali is concerned, when no vital role has been attributed to them apart from that they had accompanied the co-accused at the time of occurrence, or instigated the other co-accused, the vicarious liability calls for further probe. Hence, the case of the applicants/accused squarely falls within the ambit of further enquiry as envisaged under sub-section (2) of Section 497 Cr. P.C.

5. For the foregoing facts and reasons, ad-interim pre arrest bail granted to applicants/accused, vide orders dated 18.11.2016, is hereby confirmed on the 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 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.


JUDGE