

WS

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No.S-196 of 2016.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection as Flag 'A'.
2. For Hearing.

02.12.2016.

Mr. Mujahid Ali Jatoi, advocate for the applicant.

Applicant is also present.

Mr. Khadim Hussain Khooharo, D.P.G.

Through instant Crl. Bail Application, the applicant seeks pre arrest bail in Crime No.19/2016 registered at Police Station Sadar Jacobabad, under section 324, 34, PPC. His earlier bail application bearing Crl. Bail Appln. No.76/2016 was heard by the learned 2nd Additional Sessions Judge, Jacobabad, which was dismissed vide order dated 09.03.2016.

As per FIR the allegation against the applicant/accused is that on 01.02.2016 he called the complainant party on telephone at a Hotel situated near Almas Petrol Pump and when at about 11:15 a.m complainant party reached there, co-accused Muhammad Bux, Dodo and Manthar came there along with pistols and co-accused Muhammad Bux caused firearm injury to Nazir Ahmed on his neck.

Learned counsel for the applicant has mainly contended that there is delay of three days in lodging the FIR which has not been plausibly explained by the complainant; that the allegation against the applicant is that he made contact with the complainant party on telephone and called them at the place of the incident, however, no role of causing firearm injury has been assigned to the applicant for commission of the alleged offence, hence it is a fit case for further enquiry.

On the other hand learned D.P.G has opposed this application on the ground that the name of the present applicant/accused appears in the FIR and he facilitated to co-accused persons in the commission of the offence by calling the complainant party on phone at the place of occurrence.

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It is an admitted fact that FIR has been registered after the delay of three days whereas the distance between the Police Station and the place of occurrence is about one kilometer for which no plausible explanation has been furnished by the complainant party. The allegation against the applicant is only to the extent that he called the complainant party at place of incident on telephone where co-accused Muhammad Bux caused firearm injury to Nazir Ahmed. No overt act has been assigned to the present applicant/accused. It is not the case of prosecution that the applicant has caused any injury to injured Nazir Ahmed. ^{or} Calling the complainant party by making a phone call and presence of the applicant at the place of incident and his role in the commission of offence will be decided at the stage of trial. Keeping in view, the particular facts and circumstances of the case when no vital role has been attributed to applicant apart from the role mentioned above, the vicarious liability calls for further enquiry as envisaged under subsection (2) of Section 497, Cr.P.C.

For considering the above mentioned facts and circumstances, ad-interim bail granted to the applicant vide order dated 22.04.2016 is hereby confirmed on the same terms and conditions.


Judge

M.Y.Panhwar/**