

## **ORDER SHEET**

### **IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO**

#### **Cr. Bail Application No.5- 192 of 2022**

Applicant(s): Jabbar son of Qasim Mallah, through Mr. Muhammad Afzal Jagirani, Advocate.

The State: Through Mr. Shafi Muhammad Mahar, DPG .

#### **Cr. Bail Application No.5- 244 of 2022**

Applicant(s): Khalid son of Muharram Mallah, through Mr. Imtiaz Ali Jatoi, Advocate.

The State: Through Mr. Shafi Muhammad Mahar, DPG .

Date of hearing: 19.09.2022.

Date of order: 19.09.2022.

### **ORDER**

**Naimatullah Phulpoto-J.** By this single order I intend to decide both bail applications, out of them, one is pre arrest bail application i.e. B.A.No.S- 192 of 2022 filed by applicant/accused Jabbar and other is post arrest bail application i.e. Cr. B.A.No.244 of 2022 filed by applicant/accused Khalid, in Crime No.73/2022 registered at Police Station Mehar, for offences punishable under sections 324,147,148, 149, 504, 337-H(ii),109 PPC. Previously, applicants/accused applied for the same relief before learned Additional Sessions Judge-1, Dadu but the same were rejected by him vide orders dated 06.4.2022 and 20.4.2022, respectively. Hence, applicants/accused approached this court.

It is contended that there is delay of about one day in lodging of FIR for which no plausible explanation has been furnished by the complainant; that the applicant/accused Jabar was armed with repeater at the time of incident but he did not open the fire upon the complainant party and made aerial firing; that as regards to the applicant Khalid is concerned it is argued that according to the case of prosecution he had caused lathi blow to PW Ali Raza but according to the medical certificate injured Ali Raza had sustained injury by means of sharp cutting weapon.

He lastly submitted that application of section 324 PPC is yet to be determined at the trial.

Learned APG conceded to the contention raised by learned counsel for the applicants/accused.

I am inclined to grant bail to applicant/accused Khalid for the reasons that allegation against applicant/accused Khalid is that he caused lathi blow to PW Ali Raza but according to medical certificate injured had received injury by sharp cutting weapon. Moreover, injured Ali Raza had received injury at non vital part of the body; that there was also delay of one day in lodging of FIR for which no plausible explanation was furnished. As regards to the case of applicant/accused Jabbar is concerned though the was armed with repeater but did not fire upon the complainant party and made aerial firing. Application of section 324 PPC is yet to be determined at the trial. In the case of ***Rana Muhammad Imran Nayrullah v. the State (Criminal Petition No: 358-L of 2022 dated 23.8.2022)***, it is held that while granting pre-arrest bail merits of the case can also be considered.

For the above stated reasons, I have no hesitation to hold that case against applicant/accused Khalid requires further inquiry under section 497 (2) Cr.P.C. Accordingly, applicant/accused Khalid son of Muharram Mallah is granted subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand) and PR bond in the like amount to the satisfaction of learned trial court. Applicant Abdul Jabbar has also made out a case for confirmation of bail for above stated reasons. Interim pre-arrest bail already granted to the applicant/accused Jabbar son of Qasim Mallah vide order dated 13.04.2022, is hereby confirmed on same terms and conditions.

The observations made herein above are tentative in nature only for the purpose of deciding instant bail applications, which shall not, in any manner, prejudice the case of either party before the trial court.

Both bail applications stands disposed of.

J U D G E