

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

Criminal Bail Application No.S-872 of 2021.

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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	For orders on office objections. For hearing of main case.
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10.12.2021.

Mr. Ashfaqe Ahmed A. Solangi advocate for the applicants.  
Mr. Jawaid Iqbal Arain advocate for complainant.  
Ms. Sana Memon, Assistant Prosecutor General.  
ASI Badar Din I.O. of the case.  
All applicants are present on interim bail except applicant Rizwan.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Complainant in FIR dated 10.08.2021 has alleged that applicants on account of previous enmity on a plot caused injuries to his brother Muhammad Waris when they were present on agricultural land near Hashim Chhachar village. Applicant Ghulam Mustafa caused butt blows; whereas accused Meer Hassan, Manthar and Rizwan caused back side hatched, sickle and lathi blows respectively to his brother. Applicant Muhammad Juman, Muhammad Achar and Punhal are stated to have resisted complainant and others from intervening by capturing them. Medical certificate of injured shows that he has received as many as eight injuries. The severe one falls under Section 337-A(iii) PPC is punishable for ten years and the simple one is under Section 337-L(ii) PPC.

Learned counsel for the applicants has submitted that only general allegations have been leveled against the applicants. It is not specified as to which accused caused which injury. The Medical certificate does not show that a particular injury was caused by either sharp side weapon or hard and blunt substance, therefore, the case of the applicants requires further inquiry.

Learned counsel for complainant has opposed bail so also learned APG but she submits that no active role has been assigned to applicants Muhammad Achar, Muhammad Juman and Punhal and therefore she has no objection to confirmation of their bail. I have considered submissions of

the parties and perused the material available on record. Medical certificate of the injured shows that he has received eight injuries which prima facie supports the fact of incident. Injury under Section 337-A(iii) PPC is punishable for ten years and besides that injury, the injured has sustained seven other injuries of different nature. At the stage of deciding entitlement of applicants to pre-arrest bail, the precise role proportionate to each injury cannot be determined as only tentative assessment of the material is to be made. And from the tentative assessment, applicants' role from medical certificate and statements under Section 161 Cr.P.C. of the witnesses has been established. The delay in FIR has been explained by the complainant in the words that initially they took injured to hospital and only after getting him medical treatment they appeared at PS. Even otherwise the injured was produced before police and was given medical letter on the same day which also supports the contention of complainant.

However, applicants Muhammad Juman, Muhammad Aachar and Punhal are not assigned any active role in the case and therefore, I do not see any reason to disagree with learned APG that their case requires further inquiry. However, the remaining applicants as named above who have been assigned specific role are not entitled to concession of pre-arrest bail which is only meant to save innocent persons from trumped up charges leveled malafide against them by the complainant party. Accordingly, ad-interim pre-arrest bail granted to the applicants Ghulam Mustafa, Manthar Ali vide order 04.10.2021 is hereby recalled. Bail of applicant Rizwan has already been recalled vide order dated 29.11.2021 due to his absence and that order, since merits of his case have been discussed here, is merged into present order. However, ad-interim pre-arrest bail granted to applicants Muhammad Aachar, Muhammd Juman and Punhal vide order 04.10.2021 is hereby confirmed on the same terms and conditions.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

**JUDGE**