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

Date of hearing  
18.08.2017.

Crl. Bail Appln. No. S- 22 of 2017.  
Order with signature of Judge


Mr. Rashid Mustafa Solangi, Advocate for applicants  
Mr. Sardar Ali Rizvi, D.P.G.

Omar Sial, J: Applicants Abdul Qadir, Abdul Karim, Yar Muhammad, Gul Muhammad @ Gul Hassan, Ghulam Sarwar, Ali Hassan, Ghulam Yaseen and Bashir Ahmed have sought pre-arrest bail in Crime No.90 of 2016 registered under Sections 324, 337-A(i), 33-F(i), 147, 148, 149, 427 P.P.C, at B-Section Police Station in Thull. Earlier, their pre-arrest bail application was dismissed by the learned Sessions Judge, Jacobabad vide his order of 24.12.2016.

Brief facts of the case are that on 07.11.2016 one Gangal Bangulani lodged a report stating therein that there is a dispute over land between the complainant party and Abdul Qadir Samejo and others. Earlier that day at about 9:30 in the morning, the complainant along with Sain Bux, Manzoor Ahmed, Mumtaz, Tufail, Abdul Hameed, Imran and Qaima were busy in harvesting work when ten people appeared on the scene. The complainant identified them as Abdul Qadir (armed with a shot gun), Abdul Mehboob, Yar Mohammad and Gul Bux (armed with hatchets), Ghulam Sarwar, Ali Hassan, Yaseen, Qadir Bux, Anwar, Bashir (all armed with cudgels). Accused Abdul Qadir fired at Qaima, which fire hit her right foot. Accused Yasin hit Qaima with his cudgel; accused Abdul Karim hit Abdul Hameed three times on his head. Accused Yar Mohammad hit Manzoor Ahmed with his hatchet twice as well as hit Sain Bux on his head. Accused Gul hit Mumtaz with his hatchet. Accused Anwar hit Imran with his cudgel. The accused persons then demolished the house of the complainant and left the scene. Based on the report of Gangul Bangulani, the aforementioned FIR was registered against the accused persons.

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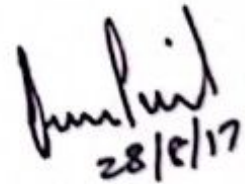
I have heard the learned counsel for the Applicants as well as the learned DPG and have also examined the available record with their assistance. The complainant and his counsel chose to remain absent despite notice. My observations are as follows.

- (1) The complainant is said to be standing with seven other persons. The assailants hit all seven people but left the complainant unscratched while he stood and observed which one of the assailants hit whom, with what weapon as well as the number of strikes each made. The complainant claims that the assailants had come with the intention to murder the complainant party but despite being so heavily armed, they did not manage to achieve their goal and only one shot was fired and that too on the right foot of Mst. Qaima. Prima-facie this seems unnatural conduct, which requires to be explained during trial.
- (2) The incident is said to have occurred on 07.11.2016. Mst. Qaima went to the hospital the same day. She was said to have been shot at by Applicant Abdul Qadir. The medical report that has been issued on the same date does not reconcile with the ocular version of the complainant, as there is no mention of a gunshot injury, rather the medical report shows that Mst. Qaima's injury was with a hard and blunt substance. Similarly, the medical report of the injured also shows that the injuries are with hard and blunt substances although the impression given by the complainant in the FIR seems to be that they were caused by the sharp edge of a hatchet.
- (3) There is no role attributed to the Applicants Ghulam Sarwar, Ali Hassan Samejo, Ghulam Yaseen and Basheer Ahmed. Mere presence is assigned to these Applicants. Co-accused Qadir Baksh and accused Anwar (who also have been assigned no role by the complainant) were granted bail by the learned Session Judge, Jacobabad, which bail has not been challenged by the complainant or the State. The case of the Applicants Ghulam Sarwar, Ali Hassan Samejo, Ghulam Yaseen and Basheer Ahmed being on the same footing, the rule of consistency also works in their favour.
- (4) There is admittedly an ongoing enmity between the parties, which has also led to the filing of a case under the Illegal Dispossession Act, 2005 by the accused party against the complainant party which is pending adjudication. The complainant party had also lodged another FIR bearing number 34 of 2015 against the accused party, which FIR was disposed of in "C" Class by the learned Civil Judge and Judicial Magistrate, 

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Thull. There is also a counter version to this incident lodged by the Applicant Abdul Qadir against the complainant party (being FIR No. 89 of 2016 under Sections 447, 334, 506 (2), 337-A(i), 337-F(i), 147, 148 and 149 PPC at P.S. Thull) prior to the registration of the FIR from which this bail arises. Who was the aggressor and who was the aggrieved needs to be determined after leading of evidence. Prima-facie it appears that both parties are using filing of criminal cases against each other and roping in as many members of the opposing side in them as intimidation and pressurizing tactics. In the circumstances of this case, ulterior motive and malafide on part of the complainant cannot be conclusively ruled out at this initial stage.

Above are the reasons for my short order of 18.8.2017; in terms of which the interim pre-arrest bail granted to the Applicants vide order of this Court dated 18.01.2017 was confirmed on the same terms and conditions.



JUDGE

Ansari\*