

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

Criminal Bail Application No.S-603 of 2020

Applicants: Rasool Bux, Shah Nawaz, Moula Bux, Faqeer Muhammad, Faiz Muhammad, Muhammad Bux and Hakim Ali, through Mr. Afzal Karim Virk, Advocate.

Complainant: Shahmir Son of Leemon through Mir Naeem Talpur, Advocate.

The State: Through Mr. Shahid Ahmed Shaikh, Deputy Prosecutor General, Sindh.

**Date of hearing: 10.08.2020.**  
**Date of decision: 10.08.2020**

**ORDER**

**ABDUL MAALIK GADDI, J-** The applicants/accused are present on interim pre-arrest bail granted to them by this Court vide order dated 02.07.2020. Today, this bail application is fixed for confirmation or otherwise.

The precise allegation against the applicants is that they being armed with respective weapons mentioned in the F.I.R formed an unlawful assembly in order to commit rioting and in prosecution of common object assaulted upon complainant party and caused injuries on the person of each one namely Mir Hassan, Sobdar, Ameen, Niaz Ali, Allah Dino, Muhammad Soomr, so also abused them, issued thrats of murder and made aerial firing. The Rasool Bux has assigned role of causing gunshot to injured Sobdar with intention to kill him which attack was carried out on the instigation of applicant Muhammad Bux Rajar owing to motive of matrimonial dispute, for which, present F.I.R was lodged.

It is argued by learned counsel for the applicants that the applicants are innocent and have falsely been involved in this case due to admitted enmity; that it is a case of counter version and according to him, both the parties have lodged F.I.Rs of the same incident being Crime Nos.12 and 13 of 2020 at P.S. Ghulam Nabi Shah District Umerkot and in this incident both the parties have received injuries and it is yet to be determined at the time of trial which party was aggressor till then according to him case of present applicants/accused required further probe; that present matter is counter case of F.I.R No.13 of 2020 lodged by wife of applicant No.2 Shahnawaz without any reason, hence he prayed for confirmation of bail.

As against this, learned Deputy Prosecutor General, Sindh assisted by learned counsel for the complainant has opposed this bail application on the ground that the applicants are named in the F.I.R with specific role and through incident they have played active role in the commission of offence; that alleged offence under section 324 P.P.C is non-bailable falls within the prohibitory clause of section 497 Cr.P.C; that there is no malafide on the part of the complainant to falsely implicate the applicants/accused, therefore, he prays that interim order already passed by this Court may be recalled.

Parties Advocates have been heard and record perused.

It is an admitted fact that case has been challaned and present applicants/accused are no more required for investigation. According to contents of the present F.I.R, the applicants launched attack on the complainant party, whereas according to the cross version got lodged F.I.R by wife of applicant No.2 Shahnawaz being Crime No.13 of 2020 against complainant party; that six persons from the side of the applicants have also suffered grievous injuries at the hands of complainant party. It appears that it is two versions case, one setup by the complainant in F.I.R being Crime No.12 of 2020 and the other by applicants/accused being Crime No.13 of 2020 regarding their cross version. It reveals from the record that during incident both the parties sustained injuries almost of similar nature. Each of them is claiming the other to be aggressor, therefore, which party is aggressor and which was aggressed upon would be adjudicated by the learned Trial Court after recording of evidence. It is brought on record that both the parties having inimical terms with each other on matrimonial dispute and this fact is evident from the F.I.Rs lodged by the parties against each other, therefore, it is yet to be seen at the time of trial whether the incident in such F.I.Rs has taken place in a fashion as stated in the F.I.Rs or otherwise, till then case of the applicants required further inquiry.

From case papers, it also appears that the injuries to the complainant party having been declared by Doctor are not dangerous / detrimental to any of the member of the complainant party. It is noted that this incident has been taken place on the basis of matrimonial dispute and no accused from either side is in jail rather they are on bail, therefore, under these circumstances sending to the applicants/accused to jail would not serve any purpose. In this view of the matter, the applicants/accused have made out their case for confirmation of bail, therefore, this bail application is allowed and the interim order dated 02.07.2020 already passed by this Court stands confirmed on same terms and

conditions with directions to the applicants to appear before Trial Court to face trial. Since it is a case of counter version, therefore, learned Trial Court is directed to proceed with the matter expeditiously and decide the same as early as possible preferably within the period of three (03) months after receipt of this Order and no unnecessary adjournment shall be granted to either side.

Needless to mention here that observation if any, in this order is tentative in nature and shall not effect the merits of the case.

Before parting with this order, I would like to make it clear that in case during proceedings if, the applicants misuse the concession of bail, then presiding officer of the Trial Court would be competent to cancel the bail of the applicants without making any reference to this Court.

JUDGE

*Muhammad Danish Steno\**