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ORDER SHEET *7*
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No. 316 of 2018
Date Order with Signature of Judge

For hearing of bail application.

14.09.2018.

Mr. Ali Raza Balouch, Advocate for Applicant.
Mr. Ashiq Ali Jatui, Advocate for Complainant
Mr. Khadim Hussain Khoonharo, A.P.G for the State

After rejection of his earlier application for grant of pre-arrest bail, vide order dated 20.06.2018, passed by the Court of Addl. Sessions Judge-II, Kamber, applicant/accused Gulshan Lashari s/o Roshan Ali Lashari, through instant Criminal Bail Application seeks pre-arrest bail in Crime No. 34/2018, registered at P.S Warrah, under Section 302, 114 & 34 P.P.C. The applicant was admitted to ad-interim pre-arrest bail by this Court, vide Order dated 25.06.2018, now he seeks confirmation of the same.

2. Briefly stated facts of the prosecution case are that, on 20.04.2018, complainant Noor Muhammad s/o. Jhando Khan lodged the F.I.R alleging therein that about four years back the murder of his maternal uncle, namely, Ghulam Rasool @ Sadoro was committed by Muhammad Pannah @ Asghar, and others and such case is pending adjudication before the Court wherein his brother Mukhtiar Ahmed was a witness, on that Muhammad Pannah and others used to issue them threats and restrain Mukhtiar Ahmed from deposing against them, otherwise they would kill him. It is further alleged that on the said day complainant, his brother Mukhtiar Ahmed who was a motorcycle mechanic, maternal uncle Amanullah and cousin Hamza Khan were available at the shop of his brother situated in Warrah when one unidentified person came there and asked his brother to mend his motorcycle standing at the bank of Tharri Sim Shakh, on that they went with their brother by taking the un-identified person on their motorcycles and reached

pointed place at 0830 hrs. where they saw accused (1) Muhammad Pannah (2) Nazeer Ahmed and (3) Ibrahim, standing there duly armed with pistol, who pointing their weapons asked them to remain silent; thereafter, Muhammad Pannah instigated the other accused persons to kill Mukhtiar Ahmed and then he fired on the head of Mukhtiar Ahmed, while other accused persons made straight fires on him, he fell down on earth and; thereafter, all the accused persons went away; they took injured Mukhtiar Ahmed for treatment but he succumbed to injuries on the way to Taluka Hospital.

3. The learned counsel for the applicant contents that the applicant is innocent and has falsely been implicated in this case malafidely in order to harass and humiliate him for ulterior motives; that the applicant has not been nominated in the F.I.R. despite the fact that the applicant, as well as complainant party belong to same Lashari community and the village of complaint is situated at the distance of 5 kilo meters from the village of applicant and the applicant and his father used to visit the house of complainant and vice versa; that the applicant was implicated by the complainant subsequently after 19 days of the lodging of F.I.R. in his further statement; hence, the guilt of the applicant requires further enquiry.

4. On the other hand, learned counsel appearing for the complainant and A.P.G oppose this application on the ground that the P.Ws. Hamzo Khan and Amanullah in their statements under section 161 Cr. P.C have fully implicated the applicant with the commission of alleged offence, so also, the complainant in his further statement; therefore, he is not entitled for the concession of bail.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. It is an admitted position that the applicant is not a stranger to the complainant party but his name is not appearing in the F.I.R., though names of co-accused person are mentioned in the F.I.R with their parentage by assigning specific role, and his name was taken by the complainant subsequently in his further statement, recorded after 19 days of lodging of the F.I.R, stating that he was the person who induced the deceased to go with him on the pretext that his motorcycle had gone out of order. Under such circumstances, the guilt of the applicant requires further enquiry as envisaged under sub-section (2) of Section 497 Cr.P.C.; therefore, interim pre-arrest bail granted to applicant by this Court vide Order, dated 25.06.2018, is hereby confirmed on the same terms and conditions.

7. Needless to mention here that if applicant in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice, in accordance with law.


JUDGE

- Applicant DW Multan

1) - Pz Order on MA 6784/21 (U/A)

2) - Pz Order on MA 6785/21 (561-A)

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