

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

Criminal Bail Application No.S-811 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case

**04.10.2019.**

Mr. Muamar Bhutto, Advocate for applicants.

Mr. Naeemuddin Sahito, Advocate for complainant.

Mr. Nazar Muhammad Memon, A.P.G.

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Applicants are seeking post arrest bail in Crime No.05/2019 registered u/s 302, 504, 34 PPC at P.S Mahi Otho at Karampur, District Jamshoro.

F.I.R. shows that the complainant and accused are related inter se and have a dispute over property. In the F.I.R. in all five accused have been nominated, out of them the applicants are female accused and have been ascribed a role of holding the arms of deceased, who is uncle of the main accused who caused his murder by causing hatchet injuries. In the investigation, one of the main accused namely Sikander was found innocent and released u/s 497(1) Cr.P.C, however, Magistrate concerned did not agree with it and has taken cognizance against him.

Learned Counsel for the applicants has argued for grant of bail to the applicants on the ground that they have been falsely implicated with no active role except holding of arms of the deceased, which in presence of male accused duly armed with hatchets does not appeal to the common sense.

On the other hand, learned Counsel for complainant and learned Additional Prosecutor General Sindh have opposed grant of bail to the applicants on the ground that they have been specifically nominated in the F.I.R. and have relied upon the case law reported in 2009 P.Cr.L.J 1058, 1979 SCMR 65 and 2011 MLD 1171.

Heard. In the F.I.R. the role ascribed to the applicants, who are in advanced age of 45 years and 50 years respectively as disclosed by the learned defense Counsel and not disputed by the other side, is of holding arms of the deceased in presence of witnesses and in presence of three male accused, who were duly armed with hatchets and allegedly indiscriminately caused hatchet blows on the person of the deceased. The description of the incident such as above would make the case against applicants to be of further inquiry as it would be seen whether two ladies of advanced age could stop the deceased by holding his arms in presence of witnesses without any resistance by them while the male accused were indiscriminately causing hatchet blows upon the deceased at the peril of applicants. The fact that one of the main accused namely Sikander was found innocent in the investigation, although such report was not agreed by the concerned Magistrate, would also weigh in favour of the applicants as it would suggest prima facie that the complainant has not been entirely truthful in ascribing the incident.

Under these facts and circumstances, I am of the view that the applicants have been able to make out a case for further inquiry u/s 497(1), Cr.P.C and are entitled to the concession of bail. Resultantly, this bail application is allowed. The applicants are granted bail subject to furnishing a solvent surety in the sum of Rs.1,00,000/- (one hundred thousand) each and P.R Bond in the like amount to be executed to the satisfaction of trial court.

The observations hereinabove are, however, tentative in nature and shall not prejudice case of either party before the trial court.

JUDGE