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

Crl. Bail Appln. No. S- 552 of 2016.

Crl. Bail Appln. No. S- 58 of 2017.

Date of hearing  
18.08.2017.

Order with signature of Judge

1. For orders on office objections.
2. For hearing.

Mr. Mazhar Ali Mangan, Advocate for applicant.

Mr. Nisar Ahmed G. Abro, Advocate for complainant.

Mr. Sardar Ali Rizvi, D.P.G.

Omar Sial, J: The Applicants Sultan Ahmed and Muhammad Ashraf have sought pre-arrest bail in crime No.44 of 2015 registered under Section 365-B P.P.C at the Badeli Police Station.

The learned Sessions Judge, Larkana, dismissed the Applicants' pre-arrest bail application on 12.11.2016. The Applicants then filed a pre-arrest bail application bearing number S- 552 of 2016 in this Court and was granted interim pre-arrest bail vide an order dated 17.11.2016. On 03.2.2017 when the hearing of that application was fixed, one of the applicants, namely, Sultan Ahmed was absent, hence his interim pre-arrest bail was recalled. Ultimately, applicant Sultan Ahmed filed Crl. Bail Appln. No. S- 58/2017 and was granted interim pre arrest bail vide order dated 10.02.2017.

Brief facts of the prosecution case are that on 08.12.2015, the complainant Bakshal Khan Phulpoto lodged the aforementioned FIR stating therein that on 07.11.2015 he was in his home with his son Sikander Ali, nephew Murad Ali, daughter Saeeda and other family members. At 3:00 p.m. a car stopped outside their house and five persons disembarked from it. The complainant recognized four of them as being Maqbool Brohi, Ali Asghar Brohi, Ashraf Brohi and the Applicant while the fifth person remained unidentified. All the five persons took out pistols and Maqbool caught Saeeda by her arm and took her away in the car.



I have heard the learned counsel for the Applicant as well as the learned DPG and have also examined the record with their able assistance. The complainant remained absent despite being at notice. My observations are as follows.

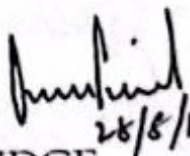
As regard his non-appearance and subsequent dismissal for non-prosecution of his earlier bail application S- 552 of 2016 is concerned, the learned counsel stated that Applicant Sultan Ahmed is the In-Charge of the Cotton Research Center in Lasbella and that on 03.02.2017 he could not reach the Court due to the fact that Director General, Agricultural Research had called a meeting, in which he was required to be present. He has put on record a letter from the DG's office confirming the same. Learned counsel stated that the order recalling the interim bail also observed that the Applicant had asked the co-accused to seek condonation for his absence on that date but as the co-accused had no documentary evidence with him; the Court recalled the interim pre-arrest bail without hearing any argument. It appears from the Order Sheets that apart from this one absence, the Applicant had been regular in attending the Court previously. It is correct that at this stage of pre-arrest, such negligence usually is not to be condoned, however, keeping all the circumstances of the case in mind, and also keeping in view the fact that this Court subsequently granted him interim pre-arrest bail again, I have taken a lenient view to the previous dismissal on grounds of non-prosecution.

The role assigned to the Applicants is that of accompanying the main accused Maqbool Brohi when he came to take away Saeeda. On 24.8.2016, after Saeeda had returned she recorded a section 164 Cr.P.C. statement before the learned Judicial Magistrate at Dokri, in which she had reiterated the same role of the Applicants. The veracity of Saeeda's statement has to be put to the test of cross-examination as prima facie it does not appeal to a prudent mind that she not only admitted that she married co-accused Maqbool Brohi on 08.12.2015 but



also that she lived with him for 11 months and had one baby girl from that wedlock who is now about one month old, before escaping from his clutches one day. Her version is that she was forced to marry and live with him. There is no other evidence on record at this stage to substantiate her claim. In these circumstances the possibility of ulterior motive and malafide on the part of the complainant to implicate the Applicants due to his being unhappy with his daughter running away, as alleged by the Applicant's counsel cannot be conclusively ruled out at this stage. The allegations leveled by the complainant thus also warrant further enquiry.

For above reasons, interim pre-arrest bail granted to both the applicants on 17.11.2016 and 10.02.2017 respectively, is hereby confirmed on the same terms and conditions.

  
28/8/17  
JUDGE

Ansari/\*