

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S-99 of 2017.

Date of hearing
21.08.2017.

Order with signature of Judge

Mr. Rafique Ahmed K. Abro, Advocate for applicant.
Mr. Safdar Ali Ghouri, Advocate for complainant.
Mr. Sardar Ali Rizvi, D.P.G.

Omar Sial, J: Applicant Manzoor Ali Leghari has sought pre-arrest bail in Crime No.163 of 2014 registered under Sections 353, 302, 114, 337-II (2), 148 and 149 PPC at the Darri Police Station, Larkana. Earlier, his pre-arrest bail application was turned down by the learned VIth Additional Sessions Judge, Larkana, vide his order dated 15.03.2017.

Brief facts of the case are that on 30.12.2014, one Hakim Ali lodged the aforementioned FIR at stating therein that he was walking towards a graveyard with his brother Ghulam Mustafa and cousin Ahmed Nawaz when his son, Zulfiqar Ali met with them on the way and told them that he was going to the office of the Intelligence Bureau. At that time, nine persons appeared on the spot. The complainant identified seven of them as Ghulam Rasool (armed with a Kalashnikov), Manzoor Ali, Bilawal, Pandhi, Javed, Saleem and Ghulam Mustafa (All armed with pistols). The remaining two persons who the complainant did not identify were also armed with pistols. Accused Manzoor Ali asked the complainant's son Zulfiqar as to why he was submitting false reports about the accused persons to the Intelligence Bureau and that he would now be killed for it. Accused Manzoor Ali then instigated the remaining accused and upon his instigation, accused Ghulam Rasool and Bilawal fired at Zulfiqar which fires hit him and he fell down. The other accused also fired at Zulfiqar but he was not hit by any of those bullets. The assailants then left the scene while resorting to aerial firing. Subsequently, Zulfiqar succumbed to his injuries.

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I have heard the learned counsel for the Applicant as well as the complainant and the learned APG. I have also examined the record with their able assistance. My observations are as follows.

Admittedly, no overt role is assigned to the Applicant. In fact, the complainant in the FIR recorded that it was only the gun fires of Ghulam Rasool and Bilawal that hit the deceased. Presence on the scene and resort to aerial firing is ascribed to the Applicant. Whether the Applicant shared a common intention to murder Zulfiqar with the accused Ghulam Rasool and Bilawal will need to be proved through evidence. Prima-facie, it appears that had the Applicant wanted to murder or injure Zulfiqar it would not have been too difficult a job to do. Moreover, co-accused Pandhi and Javed were admitted to pre-arrest bail by the learned trial Court on 23.07.2015 and 06.02.2017 respectively, whereas co-accused Ghulam Mustafa was admitted to post arrest bail by this Court on 02.9.2015. These grant of bails has not been challenged by the complainant or the State. The case of the applicant being on a similar footing as Pandhi and Javed and a better footing than Ghulam Mustafa also deserves the same concession on ground of consistency.

It appears that there is an ongoing enmity between the parties and on 08.10.2014 an FIR under Sections 324, 114, 148, 337-II(2) PPC was registered at the P.S. Rehmatpur by the accused party against the complainant party. In such circumstances, the learned counsel's argument that the sole reason for filing the present FIR is revenge and causing humiliation and disgrace to the Applicant and hence the same is tainted with ulterior motive and malafide, does not appear to be at this stage completely baseless.

All these circumstances, entitles the Applicant to concession of bail. Accordingly, vide short order dated 21.08.2017, the interim pre-arrest bail already granted to the applicant vide this Court's order date

JB

22.03.2017 was confirmed on the same terms and conditions and these are reasons for the same.

Ansari/*


JUDGE 28/8/17