

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. B.A.No.S- 540 of 2018

Crl. B.A.No.S- 605 of 2018

Crl. B.A.No.S- 157 of 2019

For Hearing of Bail Application.

Mr. Ghulam Shabbeer Shar Advocate for applicants in Crl. B.As. Nos. S-605 of 2018 and S-157 of 2019.

Mr. Raj Kumar D. Rajput Advocate for applicant in Crl. B.A. No.S-540 of 2018.

Mr. Ghulam Shabbir Dayo Advocate for the complainant.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

Date of hearing: 06-05-2019

Date of decision: -05-2019

ORDER

ZAFAR AHMED RAJPUT J., By this common order, I intend to dispose of aforementioned Crl. Bail Applications, as the same being arising out of same Crime / FIR bearing No.10 of 2018 registered at P.S, C-section, Sukkur under Sections 302, 311, 337H(2), 148, 149 & 452 P.P.C, are heard together.

2. Through **Crl. Bail Applications Nos. S-540 of 2018 and S-605 of 2018**, applicants/accused Asghar Ali s/o Nawab Ali and Sikandar Ali s/o Ameer Ali alias Khan Chacha Gadani have sought pre-arrest bail, while in **Crl. Bail Application No.S-157 of 2019**, applicant/accused Manzar alias Sooraj s/o Ameer Ali alias Khan Chacha Gadani has sought post-arrest bail in aforementioned Crime.

3. Briefly stated, the facts of the case, as narrated in the FIR on 26.02.2018 by complainant Khalid Ali, are that he has dispute with accused Yousuf Gadani and others over the issue of "KARAP", who used to issue threats to the complainant party of dire consequences. On 24.02.2018, complainant along with his maternal cousin Mst. Nooren, Mst. Arosa and maternal aunt Mst. Simmi Khatoon went to sleep in one room on separate carts, while father of complainant, namely, Sadiq Ali and mother Mst. Khatoon were sleeping in another room and door of the rooms were opened and bulbs were glowing in the house, when on 25.02.2018 at about 05-00 a.m. morning, complainant and his maternal cousin Mst. Noareen and his brother's wife Mst. Aroosa woke up on the noise and they came out from the room and reached at the door, where they saw the accused on bulbs light and identified to be 1. Yousuf, 2. Javed, 3. Ameer Ali alias Khan Chacha, 4. Gamthal, 5. Sikandar, 6. Zaheer, 7. Mukhtiar, 8. Manzar alias Sooraj, 9. Shoukat and 10. Asghar, all by caste Gadani armed with repeaters. On the show of weapons, all accused persons overpowered upon the complainant party. Thereafter, on the instigation of accused Manzar alias Sooraj to kill the complainant party, accused Yousif made straight fire of repeater on Sadiq Ali, the father of complainant, which hit him on right shoulder, accused Javed also made fire of repeater on Sadiq Ali, which hit him on right side of neck, accused Ameer Ali alias Khan Chacha made fire of repeater upon Sadiq Ali, which hit him on right side of back, accused Sikandar made fire of repeater on Sadiq Ali, which hit him on right shoulder,

who fell down raising cries, while accused Mukhtiar made fire of repeater on Mst. Khatoon (mother of complainant), which hit her on chest and accused Zaheer made fire of repeater on Mst. Khatoon, which hit her on her chest, she fell down on the floor while making cries. Accused Asghar Ail made fires on window of the room, whereas, accused Gamthal and Shoukat also made straight fires on the maternal aunty Mst. Sami Khatoon, who was sleeping in the room, which hit her mussels of right arm and under right arm, who fell down while making cries. Thereafter, accused persons went away while making aerial firing in order to create harassment. Then, complainant provided information at 15 and thereafter police of P.S, C-section, Sukkur reached at the spot and subsequently complainant party brought dead bodies at civil hospital, Sukkur through police and after getting post-mortem of the dead bodies conducted and funeral of dead bodies, complainant went to P.S and lodged aforementioned FIR.

4. After hearing the learned counsel for the applicants, Deputy P.G and perusing the material available on record, it appears that co-accused Zahid Iqbal, who was specifically nominated in the FIR with the allegation of making straight fire on baby Tanzila, has been admitted to post arrest bail by learned trial Court vide order dated 03.04.2019 in sessions case No.666 of 2017 on the ground that there are total three FIRs which have been lodged in respect of same offence, wherein complainant has disclosed different stories as well as names of accused and it would be determined after trial that which version out of three FIRs is true one. It is an admitted position that first FIR has been lodged in the same offence on behalf of the State bearing Crime No.71 of 2017, wherein none of the present applicants is nominated for the alleged offence; second FIR is present FIR which has been lodged by Mst. Rubina Shaheen, while third FIR bearing No.101 of 2017 has been lodged by applicant Muhammad Rafeeq. In the present case, total six accused persons have been nominated and there is general allegation against the present applicants without assigning them any specific role, as such their case for grant of bail is on better footings. Hence, applicants are entitled to the pre-arrest bail on the rule of consistency. Accordingly, interim pre-arrest bail earlier granted to the applicant Taiyab Ali alias Nadeem vide order dated 24.11.2017 and applicant Muhammad Rafeeq s/o Ameer Ali vide order dated 21.02.2019 is hereby confirmed on same terms and conditions.

5. Needless to mention here that in case applicants misuse the concession of bail in any manner whatsoever, learned trial Court shall be at liberty to cancel the bail of the applicants after serving them requisite notice, as per law.

6. Both above-mentioned Crl. Bail Applications stand disposed of.

J U D G E

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