

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S-642 of 2017

Crl. Bail Application No. S-135 of 2019

For Hearing of Bail Application.

Mr. Hadi Bux Bhatt Advocate for the applicants.
Syed Sardar Ali Shah, Deputy P.G for the State.
Nemo for the complainant.

Date of hearing: 29-04-2019

Date of decision: 29-04-2019

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.115 of 2017 registered at P.S, Mirwah under Sections 302, 311 & 114 P.P.C, are heard together.

2. Through **Crl. Bail Application No. S-462 of 2017**, applicants/accused Rafeeq s/o Ameer Ali and Taiyab Ali alias Nadeem have sought pre-arrest bail in aforementioned Crime. They were admitted to ad-interim bail by this Court vide order dated 24.10.2017, subsequently on 12.11.2018, interim bail granted to the applicants was recalled on account of their appearance, later applicant Muhammad Taiyab alias Nadeem filed Misc. Application No.7064/2018 for recalling of the order dated 12.11.2018, which was allowed by this Court vide order dated 11.12.2018 to the extent of said applicant, later on 21.02.2019 applicant Muhammad Rafeeq filed **Crl. Bail Application No.S-135 of 2019** and he was admitted to ad-interim bail by this Court vide order dated 21.02.2019. Now both

matters are fixed for confirmation of interim bail granted to above named applicants or otherwise.

3. Briefly stated, the facts of the case, as narrated in the FIR on 08.05.2017 by complainant Mst. Rubina Shaheen w/o Fayyaz Ali, are that 24.03.2017 at 2030 hours, accused persons, namely, 1. Zahid Iqbal, 2. Zafar Iqbal both sons of Pir Bux, 3. Pir Bux s/o Muhammad Murad, 4. Riaz s/o Manzoor, 5. Rafeeq s/o Ameer Ali and 6. Nadeem Abbas s/o Rustam, duly armed with shotguns and pistols entered into the house of complainant. Accused Pir Bux instigated other accused persons to commit murder of Mst. Nazia Kausar (wife of accused Zahid Iqbal) and Irshad (servant of accused Zafar Iqbal), as such all accused with intention to commit murder made straight fires at Nazia Kousar and Irshad causing their death. Accused Zahid Iqbal also made fire at his minor baby Tanzila, aged about 8/9 months saying that she was daughter of "KARI". Then all accused persons went away. Nazia Kousar, Irshad and baby Tanzila succumbed to the injuries.

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