

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No.S- 451 of 2023.

Date of hearing Order with signature of Judge.

1. For orders on office objection as flag A.
2. For hearing of bail application.

Applicant
(Khair Bux Golo & others) : Through Mr Ashfaq Hussain Abro,
advocate a/w applicants.

The State : Through Mr. Khalil Ahmed Metlo, Asstt. P.G.

Date of hearing : 11.12.2023.

ORDER.

MUHAMMAD SALEEM JESSAR-J:-Through instant bail application, applicants namely Khair Bux, Mohammad Azeem, Saffaruddin Khan and Jan Mohammad all by caste Golo are seeking their releasing on pre arrest bail in Crime No.71 of 2023 of P.S Buxapur, for offences under Sections 324, 148, 149 PPC. The applicants preferred anticipatory bail application before the trial Court vide Cr. Bail Appln. No.241 of 2023 where initially applicants were granted ad interim pre arrest bail but later on its confirmation was declined by means of order dated 09.8.2023, hence this application has been maintained.

2. Briefly the facts of the prosecution case are that complainant Abdul Sattar lodged the FIR stating therein that there was dispute between the parties over the matter of Karap. About six months back the brother of accused Abdul Sattar namely Sono Golo was died, such FIR was lodged against the complainant party in which in the wake of private faisla held between the parties, said matter was compromised between the parties but the accused persons used to say that they will take revenge. On 31.07.2023, the complainant, his brother Ali Akbar and cousin Madad Ali were irrigating their crop in their land, it was about 06-00 am, they saw and identified that the accused namely Abdul Sattar, 2. Khair Bux armed with TT pistols, 3. Muhammad Azeem with gun, 4. Safardin, 5. Jan Muhammad were with lathies, all by caste Golo R/O village Haibat Golo Taluka Kashmore and two unidentified persons, whose faces were open, the complainant party will identify them if seen again armed with pistols came there. While coming accused Abdul Sattar giving hackal said that they will not spare them and will get revenge of his brother Sono, meanwhile accused Abdul Sattar made direct

fire of TT pistol with intention to commit Qatl-e-amad of Ali Akbar, which hit him on right side of abdomen, who raised cries and fell down. The complainant party tried to take away the injured but the accused persons restrained them, hence, the accused decamped from the scene. Thereafter complainant party arranged the conveyance and brought the injured at P.S wherefrom they got letter for treatment to Buxapur Hospital and after getting first aid medical treatment the injured was referred to Rahim Yar Khan. The complainant leaving the injured at Rahim Yar Khan Hospital, appeared at P.S and lodged the FIR to the above effect.

3. Learned counsel submits that role attributed to applicants is mere their presence and main role of causing injury to injured Ali Akber is assigned to co-accused Abdul Sattar who is not present before the Court, hence case against applicants requires further enquiry. He further submits that complainant party of instant case is also absconding in Crime No.14 of 2023 P.S Buxapur under Section 302 PPC which was lodged by co-accused Abdul Sattar. Due to their absconsion complainant party have not been appearing before the trial Court, therefore, the trial Court has issued coercive process against P.Ws in terms of B.Ws. In support of contention, he places on record certified copies of case diaries from dated 21.9.2023 to 05.12.2023 vide Sessions Case No.353 of 2023 re: State v. Khair Muhammad and others under the cover of his statement dated 11.12.2023, taken on record. He, therefore, submits that the applicants after furnishing surety before this court have joined trial proceedings and besides have not misused the concession extended to them. He has prayed for grant of application.

4. Learned Addl. P.G after going through the file submits that no role has been assigned to applicants, therefore, he has no objection for confirmation of bail.

5. Heard learned counsel for the parties and perused the material brought on record. Per progress report submitted by the trial Court, on 15.11.2023, the prosecution has examined Medico Legal Officer namely Dr.Subhan Ali, I.O of the case namely ASI Sarmad Khan Mirali as well as author of FIR namely Bisharat Ali.

6. Though applicants are nominated in the FIR; however, no specific role or overt act has been assigned to them except mere their presence. Besides, they have joined trial proceedings where some of the official witnesses have been examined while remaining P.Ws due to their absconsion have not been examined, hence the trial Court has issued B.Ws against them. As far as instant bail application is concerned, in view of above factual position, the case against the applicants requires further enquiry.

Consequently, instant bail application is hereby allowed. Interim bail granted to them is hereby confirmed on the same terms and conditions.

JUDGE

O/o matter in application

- 1- Fr order in MA No. 5536/04 (U/A)
- 2- Fr order in MA No. 5065/04 (SBI-M)

Accountant report as flag "B"
- matter is already fixed on 11-10-2014