

99

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
1st Crl. Bail Application No. S- 220 of 2017

Applicants: Shahan alias Shah Muhammad & another through
Mr. Ghulam Hussain N. Surahio, Advocate.

Respondent: The State through Miss Rubina Dhamrah, ADPP.

Date of Hearing : 17.11.2017
Date of Order: 17.11.2017

ORDER

Muhammad Saleem Jessar, J.-Applicants Shahan alias Shah Muhammad and Imdad Dino seek their release on post arrest bail in Crime No. 29/2016 Police Station Bahoo Khoso (Jacobabad) for offence under Section 365-B, PPC. Bail plea was raised on their behalf before the trial Court by means of Crl. Bail Application No. 107 of 2017 but their request was turn down by order dated 18.2.2017. The case has already been challaned by the police on 09.11.2016, same is now pending for trial before the Court of 1st Additional Sessions Judge, Jacobabad vide Sessions Case No. 14/2017 re . State v. Abbas Ali and others.

2. The crux of the prosecution case is that on the fateful day the complainant together with his brother Sohrab Buledi and his wife Mst.Mandam aged about 25/26 years was going to participate in feast hosted by their relative via motorcycle and when they reached at the curve Khan Laro at 6-00 p.m. they were intercepted by a white colour GLI car out of which accused Abbas, Muhammad Ali, Shahan alias Shahnawaz (applicant),

Imamdino (applicant) and Rustam, all were having TT pistols in their hand, all by caste Umrani alighted from the car. It is alleged that accused Shah Nawaz and Rustam forcibly dragged his wife and got her seated in the car while rest of the accused pointed their weapons and overpowered them. The complainant being empty handed and due to fear did not follow the accused. It is alleged by complainant that his wife has been abducted away by the accused aims to commit zina with her therefore, he filed an application before the Ex. Officio Justice of Peace and by order dated 17.8.2016 it was allowed and subsequently after recording his statement in terms of Section 154, Cr.P.C instant F.I.R was lodged.

3. Learned counsel for the applicants submits that alleged abductee has not been recovered as yet and even though the charge has been framed against the accused yet not a single witness has been examined by the prosecution. He has further submitted that complainant of this case is also absconding in F.I.R No. 105/2017 PS Saddar, Jacobabad and therefore, is not traceable. His such contention get support from the record as process server of PS Bahoo Khoso ASI Misri Khan has furnished such report before this Court on 31.10.2017. In support of his contention, he has placed reliance on the case of Muhammad Rizwan v. The State (PLJ 2017 Cr. C (Lahore) 326), Muhammad Arif Sabri v. The State (2012 MLD 677) and Safdar Ali v. The State (2012 S.L.J. 1175). He further submits that in view of the above position case against the applicants requires further enquiry and they may be released on bail.

4. Conversely, learned ADPP for the State extended her no objection.

5. Apparently, the incident is said to have taken place on 06.9.2016 and report thereof was lodged on 23.9.2016 though the directions were issued by the Ex. Officio Justice of Peace on 17.9.2016 yet there is delay in filing of F.I.R. Since the complainant has become absconder and without his appearance case cannot be concluded. The case has been challaned and the applicants are no more required for the purpose of investigation or interrogation. It is settled that expeditious trial is the right of every accused and one cannot be kept behind the bars for indefinite period without progress in the trial. Consequently, case against the applicant requires further enquiry in terms of section 497 (2), Cr.P.C.

6. In view of the above, I am of the view that case against applicant requires further enquiry. In view of the case of Pir Bux & 7 others v. The State reported in 2011 P.Cr. PL.J. 380 (Karachi) and in view of no objection extended by learned ADPP, instant bail application is allowed. The applicants shall be released on bail subject to furnishing their solvent surety in the sum of Rs.200,000 each with P.R bond in the like amount to the satisfaction of trial Court.

Judge

Abid H. Qazi/**