

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Cr.Bail Appln:No.S- 678 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

08-09-2017

Applicants are present in person.

Mr. Shahid Ahmed Shaikh, D.P.G.

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ABDUL MAALIK GADDI,J- Through instant bail application applicants seek pre-arrest bail in Crime No.68 of 2017 under Sections 382 P.P.C, registered at police station Sehwan. Earlier their bail application has been dismissed by learned Additional Sessions Judge, Sehwan vide order dated 04.08.2017. Today this bail applications is fixed for confirmation or otherwise.

2. The allegations against the applicants/accused are that on 01.06.2017 the complainant alongwith his nephew Naimatullah and his sister's son Majid Khan were sleeping in their otaq / guest house, it was about 8.45 a.m, but the complainant party due to noise woke up from their sleep and saw that the applicants/accused armed with pistols standing there, who by the dent of weapons told the complainant party to keep silence and sneak away from the occurrence. Thereafter, the complainant noticed that one Rado watch, cell phones and CNIC of the complainant were missing, hence, this FIR.

3. It is stated by applicants that they are innocent and hs falsely been implicated in this case by the complainant due to enmity; that there are general allegation against the applicants the role allegedly assigned to applicants is quite untrustworthy and shaky, requires detailed probe inquiry into it; that the incident took place at day light time but no independent person has been cited as a witness of alleged incident, and the Pws are close relative to the complainant; that there is delay of about one day in registration of FIR without plausible explanation; that no such incident has been taken place and matter requires further enquiry at trial.

4. Conversely, D.P.G. has opposed this bail application on the ground that the applicants are nominated in the FIR with specific allegation, however he admits that the challan against the applicants/accused has already been submitted before the court of law, where they are appearing to face the trial.

5. Arguments heard and record perused.

6. It appears from the record that the alleged incident took place on 01.06.2017 while FIR has been registered on 02.6.2014 after the delay of about one day, for which no satisfactory explanation has been furnished. Perusal of contents of FIR it appears that at the date, time and place of incident allegedly the accused were standing armed with pistols and on the noise the complainant party woke up from their sleep, but surprisingly to note here that the accused persons only on the show of weapon keep them mum and went away from the occurrence, however, after them the complainant party noticed that the above said articles were missing, which story seems on the flimsy ground as the incident took place on the daylight time, but the complainant party could not see the accused while taking / took away the said articles from the place of wardat, which creates doubt and cuts at the root of prosecution, hence requires trial. Further, nothing on record to shows that the present applicants / accused are previous convict or they remained indulge in such type of activities. Notwithstanding, in this matter the investigation has been completed and challan against applicants/accused has already been submitted, hence, the applicants/accused are no more required for further investigation, as such, under these circumstances no exceptional circumstance appears in this case to withhold bail of the applicants. I, therefore, in view of the above allow this bail application and confirmed the interim pre-arrest bail in favour of applicants passed earlier on same terms and conditions with directions to the applicants/accused to appear before the trial court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and shall not affect the merits of the case.

JUDGE