

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Applications No.S-141 and 147 of 2016.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

20.09.2017.

Mr. Mazhar Hussain Kalwar, Advocate alongwith applicants.

Syed Meeral Shah Bukhari, Addl: P.G.

None present for the Complainant though served.

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ABDUL MAALIK GADDI,J- By this common order, I intend to dispose of above two bail applications, as the same have been arise out of common order passed by learned trial Court dated 24.2.2015 and also arise out of same crime bearing No.60/2015 under sections 395 and 337-H(ii), PPC at Police Station, Shahpur Chakar.

2. These applicants/accused are present on interim pre-arrest bail granted to them by this Court vide orders dated 29.02.2016 and 01.03.2016 respectively. Today these bail applications are fixed for confirmation or otherwise.

3. Brief facts of the prosecution case are that Shahid Ahmed s/o Ali Muhammad by caste Umrani lodged F.I.R. on 23.11.2015 at 2245 hours stating therein that he alongwith Muhammad Sharif and Dhani Bux both sons of Allah Dino Umrani was came to Shahpurchakar on motorcycle for obtaining amount of Rs.1,50,000/- of onion and when they were going back and reached at 05.00 p.m at bus stop of Yaroo Dahri, the accused namely Aijaz Ali s/o Ali Nawaz Gaho armed with rifle, Muhammad Khan s/o Sajjan Gaho armed with repeater gun, Imtiaz Ali s/o Ali Nawaz Gaho, Moula Bux @ Aslam s/o Khuda Bux Gaho, Shan s/o Bhai Khan Gaho and Sadam Hussain s/o Ghulam Rasool Gaho, all armed with pistols, encircled them and on the force of weapons robbed amount of Rs.1,50,000/- from the complainant, mobile phone of Muhammad Sharif, Motorcycle and runaway towards western side on robbed motorcycle while making aerial firing. The

complainant went to village and narrated the above said story. Thereafter he came to police station and lodged the F.I.R. against the accused persons.

4. It is stated by the learned counsel for applicants that case against the applicants/accused is false, fabricated and concocted and counter blast, as the applicant/accused Aijaz had also registered a criminal case against the complainant party being Crime No.42/2015 of Police Station, Gupchani. He further submits that there are number of criminal and civil cases pending before this Court as well as trial Court against each other, therefore, in view of present scenario, false implication of the applicants/accused cannot be ruled-out. He further submits that applicants/accused are regularly appearing before the trial Court, but up-till now no substantial progress has been made out. He further submits that nothing has been recovered from the applicants/accused and applicant Muhammad Khan is Head Master of Government, Primary High School, Sajjan Khan Gaho, U.C. Gupchani. He further submitted that in fact no incident has been taken place in a fashion as mentioned in the F.I.R, but the applicants/accused, who are near relatives to each other have been roped in this false case.

5. Learned Addl: P.G. for the State has opposed this bail application on the ground that names of the applicants/accused are appearing in the F.I.R. with specific allegation that at the time of incident, the present applicants have committed a robbery on main road.

6. I have given my anxious thoughts to the contention raised at the bar and have gone through the police papers so available before me.

7. It is an admitted fact that the parties are already engaged against each other in criminal and civil litigations pending before this Court as well as trial Court with regard to the landed property and in this regard I have gone through the ground No.5 agitated by learned counsel for applicants in Cr. Bail Application No.S-141 of 2016 showing series of the cases pending in between the parties before different Courts, thus, it appears that there is enmity in between the parties over the landed property. It is well-settled law that pre-arrest bail may be granted when a case is based on enmity, malafide, registered for ulterior motives, or where no offence is shown to have been committed on the basis of record, because the object is to protect the

innocent persons from humiliation, harassment and disrespect. It has been brought on record that applicant Aijaz Ahmed has also registered an F.I.R. being Crime No.42/2015 at P.S. Gupchani against the complainant party one day prior to the incident of this case, therefore, on this ground false implication of the present applicants/accused in this case cannot be ruled out. This aspect of the case will only be determined by the trial Court at the time of trial. Learned Addl: P.G. pointed out that nothing has been recovered from the applicants/accused and in this matter applicant Muhammad Khan is the Head Master of Primary High School, Sajjan Khan Gaho, U.C. Gupchani. It is an admitted fact that incident has been taken place on main road and despite this fact, no independent witness has been cited in the case, as such, perhaps incident has not been taken place in a fashion, as alleged in the F.I.R. It has further been pointed out by learned Addl. P.G. that challan against the applicants/accused has already submitted and these applicants/accused are appearing before the trial Court as well as this Court without any substantial progress, therefore, under the aforementioned facts and circumstances, I have no hesitation to hold that applicants/accused have made out a case for confirmation of bail. Resultantly, I allow these bail applications and confirm the interim order already extended in favour of the applicants/accused on the same terms and conditions with direction to the applicants to appear before the trial Court and face the trial. Since the matter pertains to year 2015, therefore, the trial Court is directed to expeditiously proceed with the matter and decide the same within a period of four months after receipt of this order without granting any un-necessarily adjournments to either side. Compliance report be submitted to this Court through Additional Registrar.

8. Be that as it may, before parting with this order, I would like to make it clear that the observations made herein above are tentative in nature and shall not affect the merits of the case.

These bail applications stand disposed of in the above terms.

JUDGE.