

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Cr.Bail Appln:No.S- 360 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

For hearing.

18-09-2017

Applicants are present on bail.

Mr. Ayaz Ali Ghuryani, advocate for applicants.

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

None present for complainant.

=

ABDUL MAALIK GADDI,J- Applicants/accused are present on interim bail granted to them by this Court vide order dated 12.5.2016. Today this bail application is fixed for confirmation or otherwise.

2. It is the case of prosecution that on 25.4.2014 at 1445 hours, complainant Muhammad Zafar lodged FIR at P.S B-Section Dadu, alleging therein that between accused persons and his maternal uncle Buxial dispute is going on over Agricultural land. On 29.1.2014, he alongwith his brother Younis, maternal uncle Buxial, Paternal cousin (Maroot) Sikander Ali, Nadir and wife of Sikandar Mst. Ajeeba, alongwith other inmates were chit chatting in their house, at about 5-30 pm, accused Manzoor with DBBL gun, (2) Yaseen armed with SBBL gun, (3) Ghulam Mohammad armed with DBBL gun, (4) Shabir, (5) Saddam armed with hatchet, (6) Roshan armed with danda, (7) Khadim armed with hatchet, (8) Gogro alias Essa armed with danda entered into their house and abused them and then accused Manzoor shot straight fire with his gun upon Buxial which hit on the paw of his hand, accused Saddam also caused sharp side of hathchet blow to him/Buxial on right side of Waist, who due to injuries fallen down by raising cries and blood was oozing from his injuries, accused Ghulam Mohammad made straight fire upon paternal cousin of the complainant namely Sikandar Ali and his wife Mst. Ajeeba, with intention to commit their murder which hit to Sikandar Ali on his right side of temporal (LONDRI) region and too Mst. Ajeeba on her left side of buttock and fingers of right hand, accused Shabir also

caused danda blow to Sikandar Ali on the shoulder, due to fire arm injuries both husband and wife fallen down on the ground and blood was oozing from their injuries. Accused Yaseen shot straight fire upon Nadir Ali, pellets hit to him on right side of temporal region and upper side of the rib, who raised cries and fallen down. Accused Roshan, Gogro alias Essa and Shabir caused danda blows to complainant and Younis on head, back side and other parts of their body. On their cries and fire shots reports co-villagers and relatives of the complainant party came there, thereafter accused went away by abusing, then complainant and other injured appeared at P.S, wherefrom they were referred to Civil Hospital, Dadu under police letter, where they received treatment while injured Nadir Ali, Sikander Ali and Mst. Ajeeba were referred to Nawab Shah hospital, consequently complainant appeared at P.S and lodged the FIR.

3. It is stated by the learned counsel for applicants that the case against applicants/accused is false and has been registered due to enmity; that the incident took place on 29.1.2014 but FIR was registered by complainant Muhammad Zafar on 25.4.2014 after the delay of two months and 26 days, for which no explanation has been furnished as such according to him false implication of the applicants in this case cannot be ruled out; that on the same date and time the present applicants have also registered the case against complainant Muhammad Zafar being crime No.70 of 2014 of PS B-Section Dadu and according to him it is a case of counter version and it is yet to be determined at the time of trial that which party is aggressor; that all the injuries attributed to the present applicants are on non-vital part of the injured and have also not declared by the Doctor as dangerous; that the case was pending before the IIIrd Additional Sessions Judge, Dadu, but nobody was appeared in this case on behalf of the complainant Zafar, therefore, vide order dated 14.9.2017 trial court has stopped the proceedings. During course of arguments he has placed on record the statement alongwith certified true copy of order dated 14.9.2017, which is taken on record and copy whereof supplied to the learned D.P.G. Per learned counsel that the applicants are appearing in this Court regularly and trial court has already stopped the proceedings, therefore, he was of the view that under these circumstances, the bail to the applicants/accused may be confirmed.

4. Learned D.P.G. has opposed this bail application on the ground that the applicants are nominated in FIR with specific allegation that they caused fire arm injuries to four injured persons.

5. Arguments heard and record perused.

6. It appears from the record that in this matter the incident took place on 29.1.2014 while the FIR has been registered on 25.4.2014 after the delay of two months and 26 days for which no satisfactory explanation has been furnished as such on this ground false implication of applicants in this case with due deliberation and consultation cannot be ruled out. It appears from the record that there are counter versions of both the parties and in this connection accused party has also registered an FIR being crime No.70 of 2014 at PS B-Section Dadu against the complainant party of the case who also allegedly caused injuries to the accused party and it is yet to be determined at the time of trial which party is aggressor till then it is the case of further inquiry. Learned counsel for applicants has also placed on record certified true copy of the order dated 14.9.2017 passed by the learned IIIrd Additional Sessions Judge, Dadu in Sessions Case No.483 of 2014 Re. State vs Roshan and others, whereby the trial court stopped the proceedings on account of non-appearance of complainant party before the trial court. Under these circumstances further retention of this bail application would not serve the purpose.

7. In view of the above, the applicants have made out the case for confirmation of bail, therefore the instant bail application is allowed and confirmed the interim pre-arrest bail in favour of applicants passed earlier on same terms and conditions with direction to applicants to appear before the trial Court as and when called / summoned by the trial court.

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

JUDGE