

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

CrI. Bail Appln: No.S-347 of 2018.

Din Muhammad. . . . . Applicant.

Versus.

The State. . . . . Respondents.

Mr. Ayaz Hussain Chandio, Advocate for the Applicant.

Mr. Shahid Ahmed Shaikh, DPG.

Mr. Muhammad Ali Rind, Advocate for the complainant.

Date of hearing and order 20.06.2018.

**O R D E R**

**IRSHAD ALI SHAH, J.** It is alleged that the applicant with rest of the culprit, committed trespass by night into the house of the complainant Lal Bux with intention to commit theft of goats, caused him butt, lathis and hatchet blows with its backside, for that the present case was registered.

2. The applicant sought for his release on bail by making such application, but it was dismissed by the learned trial Judge mainly for the reason that there is possibility of his absconsion, as co-accused Taj Muhammad, after his release on bail, has absconded away.

3. The applicant now by way of instant application under section 497 Cr.P.C. has sought for his release on bail pending trial.

4. It is contended by the learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party on account of previous enmity, there is delay of fifteen days in lodging of FIR, the identity of the applicant under the light of bulb is weak piece of evidence, co-accused Taj Muhammad has already been admitted to bail. By contending so, he sought for release of the applicant on bail, as according to him his case is calling for further inquiry. In support of his contention, he relied upon the case of

**Sikandar Hayat v. The State (2009 PCr.LJ 53)** and case of **Abdul Ghaffar v. The State (2009 PCr.LJ 187)**.

5. It is contended by the learned counsel for the complainant that the applicant is neither innocent nor has been involved in this case falsely by the complainant and he is likely to abscond away, if he is released on bail. By contending so he sought for dismissal of instant bail application.

6. Learned DPG has supported the impugned order.

7. I have heard learned counsel for the parties and perused the record.

8. The FIR of the incident has been lodged with delay of about fifteen days; such delay could not be lost sight of. Nothing has been taken away by the applicant or anyone else during course of incident. The identity of the applicant is based under the light of bulb, which is a weak piece of evidence. Significantly, there is no disclosure of bulb in mashirnama of place of incident. Co-accused Taj Muhammad has already been admitted to bail, he might have absconded away after his release, but for his absconsion the present applicant could not be punished by making refusal to grant him bail under the presumption that he would follow the suit. In these circumstances, it is rightly being contended by learned counsel for the applicant that he is entitled to be released on bail as his case is calling for further inquiry.

9. In view of above and by relying upon the case law referred by the learned counsel for the applicant, the applicant is admitted to bail subject to his furnishing surety in the sum of Rs.50,000/= (Fifty thousand) and PR bond in the like amount to the satisfaction of learned trial Court.

10. The instant bail application stands disposed of in above terms.

J U D G E