

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-460 of 2017
Cr. Bail Application No.S-461 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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FOR HEARING

07.09.2017

Mr. Mansoor Ali Jatoi, Advocate for applicants.
Mr. Muhammad Azhar Arain, Advocate for complainant.
Mr. Shahid Ahmed Shaikh, D.P.G

ORDER

ABDUL MALIK GADDI, J:- By this common order, I intend to dispose of above two bail applications as they arise out of the same FIR.

2. Through these bail applications, applicants/accused seek bail in Crime No.07 of 2017 registered at P.S Kunri for offences under Sections 324, 337-A(i), 337-F(i), 452, 504, 147, 148 and 149 PPC.

3. It appears from the record that the applicants/accused had applied for post-arrest bail before the Trial Court but the same was rejected by the Trial Court vide order dated. 31.05.2017, hence, these bail applications.

4. Brief facts as disclosed in the FIR are that on 16.01.2017 the complainant alongwith his cousin Najeebullah and uncle Nabi Bux were sitting in the house of his uncle Nabi Bux, when at 04:30 p.m. each
(1) Ali Muhammad armed with hatchet (2) Lutuf Ali carrying hatchet
(3) Hakim Ali armed with gun (4) Muhammad Moosa with hatchet
(5) Shoukat armed with rifle (6) Seengar Ali armed with gun (7) Younus

with lathi (8) Ghulam Nabi armed with gun (9) Ali Nawaz armed with gun and (10) Ghulam Muhammad carrying hatchet, trespassed into the house and started abusing and the complainant party prevented them from abusing, to which accused Ali Muhammad, Lutuf Ali and Muhammad Moosa, all by caste Khoso, inflicted sharp side hatchet blows on the head of Nabi Bux with intention to kill him, who fell down. Accused Ghulam Nabi caused sharp side hatchet blow on the head of complainant's cousin Najeebullah with intention to kill him, who also fell down. Accused Hakim Ali fired upon complainant's sister Mst.Shabana which hit on her right leg and she fell down. Accused Ghulam Muhammad also caused hatchet blow on head of Mst.Shabana. Accused Younus Khoso caused lathi blows to complainant's aunt Mst.Hanifan and she fell down. Thereafter, the accused persons by issuing threats to the complainant party went away to their houses, hence, the aforesaid FIR lodged against the present accused.

5. Learned Counsel for the applicants/accused submits that the applicants/accused are innocent and they have been falsely involved in this case by the complainant. He further submits that there is counter version of the same incident which reflects from FIR No.05 of 2017 of P.S Kunri. He also submits that the role assigned to the applicants/accused is belied by medical evidence; that the applicants/accused had applied for post-arrest bail before the trial Court but the same was rejected by the Trial Court without assigning any good reason; that the FIR has been lodged with delay of 08 days after incident and that the present FIR is a counter blast of FIR No.05 of 2017 in which the accused have been granted pre-arrest bail by the Trial Court, therefore, the present applicants/accused in view of the counter

version are entitled to the grant of bail as the parties are near relatives to each other.

6. Learned Deputy Prosecutor General assisted by learned Counsel for the complainant has not opposed these bail applications on the ground that the parties are near relatives to each other and they have compromised the matter outside the Court.

7. I have given my anxious thoughts to the contentions raised at bar and have gone through the case papers so available before me. It is an admitted fact that the challan against the applicants/accused has been submitted before the Trial Court and these applicants/accused are no more required for the purpose of investigation. It is pointed out that it is the case of counter version which was also taken place on the same day viz. 16.01.2017, which reflects from FIR No.05 of 2017 registered at the same police station, therefore, it is yet to be determined at the time of trial that which party is aggressed upon. It also appears from the record that all the injuries attributed to the applicants/accused appear to be minor in nature as the M.L.O has declared the injuries attributed to the applicants/accused as not dangerous. It is pointed out that all the sections applied in these bail applications, either bailable or their punishable, do not fall within the prohibitory clause of Section 497 Cr.P.C. It is also pointed out by learned D.P.G that the applicants/accused in the aforesaid counter case, have already been granted bail. Both the parties are relatives to each other and have proceeded to compromise the matter outside the Court.

8. In view of what has been observed above, I am of the considered view that the applicants/accused have succeeded to make out a case

for grant of bail. Consequently, these bail applications are allowed and the applicants/accused namely *Muhammad Moosa, Lutuf Ali and Ghulam Muhammad* are admitted on bail subject to their furnishing solvent surety in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) each and P.R Bonds in the like amount to the satisfaction of the Trial Court.

9. Since the matter pertains to the year 2017 being injury case, therefore, the Presiding Officer of the learned Trial Court is directed to conclude the case as early as possible preferably within a period of 03 months and to avoid un-necessary adjournment to either side. Compliance report be submitted to this Court through the Additional Registrar.

10. Needless to mention that the observations made in this bail order are tentative in nature and shall not in any way affect the merits of the case at the trial.

Bail applications stand disposed of.

JUDGE

Shahid