

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

Cr. Bail Appln. No.S-298 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
<i>FOR HEARING.</i>	

28.08.2017.

Mr. Omparkash H. Karmani, Advocate for applicants.
Mr. Erum Ahmed, D.D.P.P.
None present for the complainant though served.

ORDER

ABDUL MALIK GADDI, J:- Applicants/accused namely Qaim S/o Muhammad Ramzan, Muhammad Arbab S/o Khair Muhammad and Muhammad Uris S/o Tharo Khan are present on interim pre-arrest bail granted to them by this Court vide order dated 18.04.2017. Today this bail application is fixed for confirmation or otherwise.

2. The allegations against the applicants/accused are that on 15.02.2017 at 1500 hours the above named applicants/accused duly armed with pistols trespassed into the house of Ghulam Murtaza at the instigation of applicant/accused Arbab, caused injuries to Ghulam Murtaza and also snatched Rs.95,700/- from Ghulam Murtaza, thereafter, the complainant was called and injured Ghulam Murtaza was referred to the Hospital, hence the aforesaid FIR.

3. It is, *inter alia*, contended by the learned Counsel that the applicants/accused are innocent and they have been falsely involved in this case by the complainant due to previous enmity; that there is delay of 13 days in lodging of the F.I.R, which has not been satisfactorily explained by the complainant; that the applicants/accused were granted bail by the Trial Court vide order dated 13.04.2017 but later on the same was recalled by the Trial Court without assigning any good reason. During the course of arguments

learned Counsel for the applicants/accused has also reiterated same facts and grounds as urged in the bail application.

4. Learned D.D.P.P has opposed this bail application on the ground that the names of the applicants/accused are appearing in the FIR with specific allegations that on the day and time of the incident, the present applicants/accused have played the active role in the commission of the offence as alleged in the F.I.R, therefore, he was of the view that the applicants/accused are not entitled for confirmation of bail.

5. I have given my anxious thoughts to the contentions raised by the parties and perused the case papers, so available before me.

6. It appears from the record that the incident took place on 15.02.2017 but the F.I.R of the alleged crime has been registered on 28.02.2017 after the delay of 13 days, for which no satisfactory explanation has been furnished, as such, on this ground alone false implication of the applicants/accused in this case with due deliberation and consultation on the part of the complainant cannot be ruled out. It also appears from the record that after due investigation, the name of applicant/accused Arbab, who allegedly instigated co-accused for causing injuries to the injured, has been placed in Column No.2 but the learned Magistrate did not agree to such report and joined him in this case. It is pertinent to mention here that in this matter, Section 382 PPC was shown in the F.I.R but this Section has not been proved during the investigation of the alleged crime, as such, this aspect of the case also requires further probe whether the offence has been taken place in a fashion as alleged in the F.I.R or otherwise.

7. I have also gone through the medical certificate issued by the Doctor, which reflects that the injuries attributed to the applicants/accused have not been shown to be dangerous or detrimental to the life of the injured. The case is at initial stage and the applicants/accused are appearing before this Court as well as before the Trial Court regularly.

8. As observed above, the case of the applicants/accused requires further probe, therefore, in view of what has been stated above, this bail application is allowed. Consequently, the interim order already passed in favour of the applicants/accused is confirmed on the same terms and conditions with direction to the applicants/accused to appear before the Trial Court to face trial.

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

Bail application stands disposed of in the above terms.

JUDGE

Shahid