

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Appln. No.S-540 of 20147

DATE	ORDER WITH SIGNATURE OF JUDGE
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FOR HEARING.

21.08.2017.

Mr. Aijaz Ahmed Chandio, Advocate for applicants.
Mr. Shahid Ahmed Shaikh, D.P.G
Complainant Dur Muhammad present in person.

ORDER

ABDUL MALIK GADDI, J:- Applicants/accused namely *Badar-u-Din, Abdul Rasheed, Soomar and Bhaledino Chandio* are present on interim pre-arrest bail granted to them by this Court vide order dated 10.07.2017. Today this bail application is fixed for confirmation or otherwise.

2. The allegations against the applicants/accused as disclosed in the FIR are that they alongwith co-accused armed with pistol and hatchet, beaten the Donkey of the complainant, due to which Donkey was injured and succumbed the injuries, besides they issued threats to the complainant.

3. Learned Counsel for the applicants/accused, *inter alia*, contended that the dispute between the parties is over rotation of water; that applicant No.3 Soomar has lodged FIR bearing Crime No.30 of 2013 against the complainant party; that there is un-explained delay of 45 days in lodgment of FIR; that the applicants/accused belong to a noble family and there is no criminal record against them but in the present FIR which has been lodged by the complainant with ulterior motives; that the offence to have been alleged against the applicants/accused does not fall within the prohibitory clause of Section 497 Cr.P.C. Learned Counsel further submits that the challan against the applicants/accused has already been submitted and the applicants/accused are no more required for the purpose of investigation.

4. Learned Deputy Prosecutor General with the assistance of the complainant has opposed this bail application, besides he has not controverted the above factual and legal position of the case.

5. Heard learned Counsel for the parties and perused the record minutely. It is an admitted fact that after investigation, the challan against the applicants/accused has been submitted before the Trial Court, where they are facing trial regularly. It also appears from the record that there is dispute between the parties over the rotation of water and that the applicant/accused No.3 Soomar has also lodged FIR bearing Crime No.30 of 2013 at P.S Hala against the complainant party, therefore, the enmity between the parties is apparent, therefore, false implication of the applicants/accused in this case cannot be ruled out. Furthermore, the offence against the present applicants/accused does not fall within the prohibitory clause of Section 497 Cr.P.C and no exceptional circumstances are appearing in this case to withhold bail of the applicants/accused. Under these circumstances, I am of the considered view that the applicants/accused have made out a case for their confirmation of bail. I, accordingly confirm this bail application on the same terms and conditions with direction to the applicant to appear before the Trial Court.

Bail application stands disposed of in above terms.

JUDGE

Shahid