

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

Cr. Bail Application No.S-618 of 2016.

Cr. Bail Application No.S-912 of 2016.

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For hearing.

10.10.2017.

Applicant Sikandar Ali is present on interim bail in Cr. B. A. No.S-618 of 2016.

Mr. Hameedullah Dahri, Advocate for applicants in both bail applications.

Mr. Shahid Ahmed Shaikh, D.P.G for the State.

Mr. Muhammad Rafique, Advocate alongwith complainant.

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**ABDUL MAALIK GADDI,J-** By this common order, I intend to dispose of above two bail applications, as the same are arising out of common order passed by learned IV-Additional Sessions Judge, Shaheed Benazirabad dated 30.7.2016 and also arising out of same Crime No.40/2016 under sections 302, 324, 337-H(ii), 449, 147,148, PPC at Police Station, Jam Dattar.

2. The applicant/accused Sikandar Ali is present on interim pre-arrest bail granted to him by this Court vide order dated 04.08.2016 and today his bail application is fixed for confirmation or otherwise, whereas, applicant Wali Muhammad s/o Sikandar Ali is seeking after arrest bail in Cr. Bail Application No.S-912/2016.

3. Brief facts of the prosecution case, as per F.I.R, are that on 13.6.2016 at 2300 hours complainant Ali Dino lodged F.I.R at P.S. Jam Dattar stating therein that on the date and time of the incident he was present at the house of his late brother Ali Ghulam, when all of sudden present applicants/accused duly armed with pistols entered into the house alongwith co-accused, who were armed with repeaters like Kalashnikov started firing upon him as well as inmates of the house and due to straight firing of the present applicants/accused alongwith co-accused, Mst. Heerzadi, Mst. Fahmida, Ghulam Mustafa and Mst. Noor Bano received firearm injuries on their different parts of body, whereas, due to firing of the present applicants/accused, Zakir Ali and baby Shanila died on the spot.

4. It is stated by the learned counsel for applicants that applicants/accused are innocent and they have been falsely implicated in this case by the complainant party being notables of their community, otherwise applicants/accused have not committed the alleged offence. He further submits that per F.I.R., the applicants/accused have not participated in the offence and mere their presence was shown at the place of incident and there is nothing in the F.I.R. that present applicants/accused had caused injuries to the deceased or to the injured or made firing with their weapons. He further submits that there is inordinate delay of one day in lodging of F.I.R. without any plausible explanation. Since there is an old enmity is going on between the parties, due to that complainant has falsely implicated the present applicants/accused being nekmards of their community only to pressurize the applicants/accused. He further submits that all the PWs are closely related to the complainant and deceased and no independent person of the locality was shown as witness, which shows the malafide of the complainant. He further submits that it is very strange that two minors and other family members of the same house were injured, but applicants/accused have not caused injuries to the complainant and eye witnesses, which shows that complainant and eye witnesses were not present at the time of incident and they have shown themselves as eye witnesses of the incident with malafide intention, therefore, case against the present applicants/accused requires further inquiry and he prayed for confirmation of bail of applicant/accused Sikandar Ali and also prayed for grant of bail to applicant/accused Wali Muhammad Bugti. In support of his contention, he has placed reliance on the cases of MUHAMMAD IRFAN v. STATE (2014 SCMR 1347), SULEMAN v. STATE (2012 MLD 574), Mst. WAQAR-UN-NISA v. STATE (2014 P.Cr.L.J.1211), NAZAR MUHAMMAD v. STATE (2016 MLD 886) and MUKHTAR AHMAD v. STATE & 2 others (2017 P.Cr.L.J (Lahore)1092).

5. Learned D.P.G. for the State assisted by learned counsel for the complainant have opposed these bail applications on the ground that there is no delay in lodging of F.I.R., as it was lodged on the same day. They further submit that delay of 10 to 20 hours was natural delay, because entire family of the complainant was disturbed due to two murders and 4/5 causalities in the house. They also submit that these applicants/accused were named in the F.I.R. and eye witnesses of the incident namely Sain Bux and Ali Murad have disclosed the names of applicants/accused in their statements under section 164, Cr.P.C, therefore, there is sufficient evidence that present applicants/accused have participated in the crime. They further submit that in this case two minors were

murdered and all family members including minors and women folk sustained injuries, which shows that the intention of accused was that to commit murder of entire family of late Ali Ghulam Bugti and they have committed offence in brutal manner. They further submit that so far the statements of injured witnesses Mst. Heerzadi, Mst. Noor Bano, Mst. Fahmida and Ghulam Murtaza is concerned, though they have not disclosed the names of applicants/accused, because it was impossible for them to see the accused, because when they wake up they immediately received injuries, due to severe injuries, they did not see the accused and they have made their statements whatever happened with them, it shows that complainant and eye witnesses have disclosed the true facts in such circumstances question of false implication of any person does not arise, therefore, present applicants/accused are not entitled for bail and prayed for rejection of their bail. In support of their contention, they have placed reliance on the cases of *Rana MUHAMMAD ARSHAD v. MUHAMMAD RAFIQUE & another* (PLD 2009 SC 427) and *ZIA MEHMOOD alias MAZHAR v. STATE* (2012 P.Cr.L.J. 94 Islamabad).

6. I have given my anxious thoughts to the contention raised at the bar and have gone through the police papers so made available before me.

7. It appears from the record that incident took place on 13.6.2017 at 0215 hours, while F.I.R. was registered on the same day at 2300 hours, apparently there is no delay in registration of F.I.R. If there is any delay in lodging of F.I.R. as stated by learned counsel for applicants, the same has been satisfactorily explained as it was natural delay because the entire family of the complainant was disturbed due to two murders and 4/5 casualties in the house.

8. From the perusal of police papers so made available before me, it appears that the allegations against the applicants/accused that at the time of incident the present applicants/accused along with co-accused forcibly entered into the house of complainant's brother duly armed with pistols to take revenge and they made straight fires upon the complainant party and due to this firing two minors namely Zakir Ali and baby Shanila have been died, whereas, Mst. Heerzadi, Ghulam Murtaza, Aamir, Mst Fahmida and Mst. Noor Bano have received firearm injuries on their different parts of body. The incident has been witnessed by PWs Sain Bux and Ali Murad, who in their statements recorded under section 164, Cr.P.C have fully supported the case of prosecution. It also appears from the record that five empties of 30 bore pistols were secured from the place of incident, which were of 30 bore pistols carrying by the present applicants/accused at the time of incident. It

also appears from the record that applicant Sikandar Ali has not joined the investigation and after the incident was over he was absconded away thereafter he appeared before the trial Court for obtaining pre-arrest bail from where his bail was rejected and he filed this bail application. It appears from the record that this applicant/accused is fugitive from law and Court, therefore, he is not entitled for relief claimed.

9. So for the contention of learned counsel for applicants about false implication of the present applicants/accused is concerned, from perusal of police papers, I have not find anything that complainant and eye witnesses have falsely implicated the present applicants/accused and if they want to falsely implicate the applicants/accused, they must shown any specific role to them, but they have not made any exaggeration and whatever the role of present applicants/accused was that was mentioned in the F.I.R.

10. As observed above, during this incident two minors namely Zakir Ali and baby Shanila have lost their lives, whereas, five innocent persons received serious injuries on their different parts of bodies at the hands of present applicants/accused alongwith co-accused, therefore, they are not entitled for any concession of relief.

11. Be that as it may, it is pertinent to mention here that accused and his companions had allegedly fired shots from their weapons at the deceased and injured, as such, at this stage, it is wholly immaterial as to whose shot fatal. Perusal of medical certificates of the deceased and injured shows that they have received fire-arm injuries. On tentative assessment of evidence on record, there are reasonable grounds to believe that present applicants/accused are guilty of the alleged offence which is punishable with death or imprisonment for life. Submission made on behalf of accused at this stage requires deeper appreciation of evidence, which is neither permissible nor desirable at bail stage.

12. In view of foregoing reasons, I am of the opinion that prima facie there are sufficient incriminating material available on record to show that the present applicants/accused are involved in the commission of offence, therefore, I do not find any merit in these bail applications at this stage. Consequently, these bail applications are dismissed and interim order already extended in favour of the applicant Sikandar Ali is hereby recalled. The case laws cited by learned counsel for applicants/accused have been perused by me and find that the same are on different facts and circumstances of the present case, therefore, are not helpful to the applicants/accused.

13. It is important to note that in the early part of the day arguments of the parties counsel were heard and matter was reserved for orders during course of the day, when the order is being announced the applicant/accused Sikandar Ali slipped away and on query, his counsel did not reply about the presence of his client.

14. Since the matter pertains to year 2016, therefore, the trial Court is directed to expeditiously proceed with the matter and decide the same within a period of four months after receipt of this order without granting any un-necessarily adjournments to either side. Compliance report be submitted to this Court through Additional Registrar.

15. Be that as it may, before parting with this order, I would like to make it clear that observations made herein above, if any, are tentative in nature and shall not affect the merits of the case.

These bail applications stand disposed of in the above terms.

Office is directed to send a copy of this order to the learned trial Court for information and compliance.

JUDGE.

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