

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

Cr. Bail application No.S- 578 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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07.09.2017.

**Mr. Mumtaz Ahmed Lashari Advocate for applicants/
accused alongwith applicants/accused.**

None present for complainant.

Syed Meeral Shah Bukhari APG.

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ABDUL MAALIK GADDI,J: Applicants/accused are present on interim pre-arrest bail granted to them by this court vide order dated 20.7.2017. Today this bail application is fixed for confirmation or otherwise.

2- The allegations against applicants/accused are that on 01.5.2017 at about 7.00 am every one accused namely (1) Muhammad Bux, holding gun, (2) Allah Bachayo holding gun, (3) Zulfiquar Ali holding hatchet, (4) Nazeer having hatchet, (5) Rabdino having lathi, (6) Moazam having lathi and (7) Abdul Rauf having iron rod came in white colour Datsun and entered in the house of complainant, while strengthening the weapons upon complainant party, accused persons broken the lock of room while detained them in a room, took away iron box wherein valuables articles viz. Golden and silver ornament, clothes, cash amount, bed and rillies as detailed in FIR were available and went away in Datsun. Thereafter, complainant party raised cries which attracted PWs Ameer Bux, Hussain Bux and other villagers who came and rescued them from the room. Thereafter complainant party approached to Nekmards of village and disclosed the facts but of no fruitful result. Thereafter, she filed application U/s 22-a & B Cr.P.C before the court and after obtaining the order registered the FIR at police station on 19.6.2017.

3- It is contended by learned counsel for applicants/ accused that FIR is delayed for one month and 18-days. He has also contended that complainant though admitted in her statement at police station that accused Muhammad Bux is her near relative and matrimonial dispute is in existence with applicants/accused and his family, therefore, no incident has taken place, so this false FIR is lodged on the instigation of Rasool Bux Chang who is the political person. He has further contended that the complainant is lady at the time of lodging of FIR at police she could not produce any receipt of gold ornaments, so the applicants/accused are falsely implicated in this case. In support of his argument, he has relied upon He has relied upon the case laws viz.2006 P.Cr.L.J 1784 (Re: Maqsood Ali Vs. The State), (2) 2005 P.Cr.L.J-1063 (Re: Haji Gul Muhammad Vs. The State), (3) 2005 YLR 346 (Re: Muhammad Moosa & 2-others Vs. The State), (4) 1984 P.Cr.L.J 1884 (Re: Abdul Hamid Vs. The State) and (5) 1976 P.Cr.L.J 25 (Re: Irshad Hussain Vs. The State).

4- Learned APG has contended that this incident was happened on 01.5.2017, the complainant approached to the concerned police station where she was condemned unheard which practice is commonly at police stations, therefore, complainant filed her application U/s 22-A&B Cr.P.C which was disposed of vide order dated 12.6.2017 and once again the police did not attend the complainant but later on her FIR was registered on 19.6.2017. He has further submitted that applicants/accused are nominated in the FIR alongwith their substance holding in their hands, thereafter they all with their common intention and object took away the valuables viz. Gold ornaments, silver ornaments and cash. He has also submitted that this incident was seen by PWs Mst. Moozon and Naseer they are testified by the I.O they both in their respective statements have supported the version of the complainant.

5- I have heard learned counsel for the parties at considerable length and have perused the case papers so available before me.

6- It appears from the record that alleged incident took place on 01.5.2017 while FIR was registered on 19.6.2017 after delay of

about 44-days for which no satisfactory explanation has been furnished, therefore, on this ground alone false implication of applicant/accused in this case cannot be ruled out. It is an admitted fact that complainant and accused persons are related to each other as daughter of accused Muhammad Bux was married with son of complainant and daughter of complainant is married with son of accused Muhammad Bux and the marriages are still in existence, thus it appears that dispute in between the parties is matrimonial in nature and it is yet to be considered that at the time of trial whether applicants/accused have committed the offence as alleged in the FIR it is an admitted fact that challan against applicants/accused has been submitted before the trial court and applicants/accused are no more required for investigation, the case against applicants/accused based upon the evidence of interested witnesses, it is yet to be seen at the time of trial whether they are falsely implicated or otherwise, thus this fact requires further inquiry.

7- I, therefore, in view of above, come to the conclusion that it is a fit case for confirmation of bail, therefore, bail application is allowed and interim pre-arrest bail earlier granted to applicants/accused is confirmed on same terms and conditions with directions that applicants/accused to appear before the trial court and face their trial. Since the matter pertaining to the year 2017, therefore, the trial court is directed to conclude the trial as early as possible preferably within the period of three(3) months. No unnecessary adjournment shall be granted to either side. Compliance report be submitted through Additional Registrar of this court.

8- Before parting with the order, I would like to make it clear that observation if any, made in this order, is tentative in nature and shall not affect the merits of the case.

JUDGE

A.Rasheed