

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

Cr. Bail application No.S- 515 of 2017

DATE

ORDER WITH SIGNATURE OF JUDGE

13.09.2017.

Mr. Mir Naeem Talpur Advocate for applicants No.1 to 5

Mr. Imamuddin Rajput Advocate for applicant No.6

Mr. Shahid Shaikh A.P.G.

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ABDUL MAALIK GADDI, J: Having remained unsuccessful in obtaining their release on bail from learned trial court in Crime No.53 of 2017 registered under sections 452, 448, 324, 504, 337-H(ii), 147, 148, 149 PPC at police station Tando Jam, now applicants/accused seeking their release on bail through instant bail application.

2- Facts necessary for the disposal of this bail application are that on 13.5.2017 complainant and his wife namely Nusrat and his uncle Sono Khan s/o Gul Hassan and cousin Shahid alongwith children were present at the house when at about 12.00 noon they saw each one Soomar Faqir armed with repeater, Nazeer s/o Fatan Gopang armed with Kalashinkov, Sikandar s/o Soomar having Repeater, Sher Muhammad Mallah having 3x3 rifle in his hand, Muhammad Hassan son of Khamiso having pistol, Raza Muhammad duly armed with pistol and three ladies namely Mst. Lal Pari, Mst. Husna Pari and Mst. Sahib Khatoon, they all forcibly entered in his house and they started using abusive

language and issued straight fire upon complainant party. Thereafter, complainant side rescued their life by falling down on earth and requested the accused persons to forgive them as they have kept them in their house for long time, but the accused persons forcibly ousted the complainant party from the house on force of weapons by making aerial firing.

3- Heard learned counsel for the applicants who are argued that

applicants/accused are innocent and they have been falsely implicated in this case due to enmity. Learned counsel further argued that no specific role has been assigned to applicants/accused. They further argued that all the PWs are interested witnesses and no independent witness has been associated in the present case. They further argued that all the sections are not punishable more than 7-years and according to them the case against applicants/accused do not fall within the prohibitory clause of section 497 Cr.P.C therefore they have prayed for grant of bail to applicants/accused.

4 Learned APG assisted by the learned counsel for complainant has opposed this bail application on the ground that names of applicants/accused are appearing in the FIR with specific role that applicants/accused entered into the house of complainant and violated the sanctity of Chadar and Chardevari.

5- I have given anxious thoughts to the contentions raised at bar and have gone through the case papers so available before me.

6- It appears from the FIR that complainant is landlord and there is old dispute over agricultural land with accused party. It appears from the record that applicant/accused No.2 Nazeer has also filed an application to SSP for registration of FIR against complainant as son of Nazeer was kidnapped by complainant party. This fact itself shows that parties have already inimical terms with each other, therefore, false implication of applicants/accused in this case cannot be ruled out. Besides during alleged incident no body has received any injury from complainant side. All the section applied in this case either bailable or their punishment do not fall within the prohibitory clause of section 497 Cr.P.C . Under these circumstances the grant of bail is a rule and refusal is an exception

as held by the Superior courts. No exceptional circumstances appear in this case to withheld the bail of applicants/accused. Learned APG assisted by the learned counsel for complainant have not able to controvert above factual and legal position of the case.

7- In view of above, applicants/accused have made out a case for grant of their bail, I accordingly admit the applicants/accused on bail after furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand) each and PR Bond in the like amount to the satisfaction of learned trial court.

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

JUDGE

A.Rasheed

