

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

Cr. Bail application No.S- 138 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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09.10.2017.

Applicant/accused is present in person.

None present for complainant

Mr. Shahzad Saleem Nahiyan APG

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ABDUL MAALIK GADDI, J: Applicant/accused is present on interim pre-arrest bail granted to him by this court vide order dated 25.2.2016. Today this bail application is fixed for confirmation or otherwise.

2- The facts of prosecution case are that one Mst. Khalida Begum filed a Succession application U/s 372 of Succession Act 1925 through her attorney Musharaf Ali Memon against Iqra Shaikh and others, whereby her attorney in collusion with Mukhtiarkar Revenue Kotri shown two legal heirs of deceased Muhammad Siddique s/o Muhammad Ibrahim. Report from Mukhtiarkar was called regarding legal heirs of deceased Muhammad Siddique and Mukhtiarkar submitted his report on 09.01.2016 showing three legal heirs of deceased, therefore, show cause notice bearing No.Juld.223& 224 dated 14.1.2016 were issued against Mukhtiarkar Kotri and Musharaf Ali Memon, both submitted their replies but same were not considered satisfactory and therefore, the criminal complaint was filed alleging therein that attorney Musharaf Ali and Mukhtiarkar Kotri with their wilful negligent and dishonestly submitted false and forged legal

heirs certificate before the learned Sessions Court. After filing of the direct complaint, the learned Judicial Magistrate Kotri registered the case and issued NBWs against applicant/accused.

3- It is stated by the applicant that case against him is false and has been registered due to enmity. Besides, according to him, in fact he has not committed any forgery as alleged in the complaint but he

has been implicated in this case being attorney of Mst. Khalida Begum who filed succession application before the Sessions court. He further submits that sections applied in the Direct Complaint, either bailable or their punishment do not fall within the prohibitory clause of section 497 Cr.P.C but the trial court has dismissed his bail application without assigning any good reason. He further submits that he is appearing before this court as well as before the trial court without any substantial progress in the matter.

4- Learned APG though opposed this bail application but he is not able to controvert above factual and legal position of the case.

5- I have given anxious thoughts to the arguments advanced by the applicant/accused in person and learned APG and have gone through the case papers so made available before me.

6- It is the case against applicant/accused that he has allegedly in collusion with Mukhtiar Kar Revenue Kotri shown two legal heirs of deceased Muhammad Siddique and they with their wilful negligent and dishonestly submitted false and forged certificate of legal heirs before the court. Perusal of record shows that in this matter, all the sections applied either bailable or their punishment do not fall within the prohibitory clause of section 497 Cr.P.C. It is stated by the applicant/accused present in court that he is appearing before the trial court without substantial progress in the matter. It appears from the record that challan against applicant/ accused has already been submitted and applicant/accused is no more required for investigation. It also appears from the record that whole the prosecution case is based upon documentary evidence which is in possession of prosecution, therefore, no question does arise for tampering the same at the hands of applicant/accused. No exceptional

circumstances appear in this case to withhold the bail of applicant/accused and it is yet to be determined by the trial court whether applicant/accused has allegedly committed fraud and forgery as alleged, which requires further probe.

7- In view of above, the applicant/accused has made out a case for

confirmation of bail. I accordingly, allow this bail application and confirm the interim pre-arrest bail already extended to applicant/ accused on same terms and conditions with directions that applicant/ accused to appear before the trial court and face his trial. Since the matter pertaining to the year 2016, therefore, the trial court is directed to proceed the matter expeditiously and decide the case preferably within the period of four(4) months. No un-necessary 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