

Order Sheet
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Application No. 838 of 2019

Date	Order with Signature of Judge
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FOR HEARING OF BAIL APPLICATION.

Date of short order: 26.07.2019.

Applicants Farhan Azeemi, Abdul Ghaffar Azeemi and Shour Azeemi through Mr. Saathi M. Ishaque, advocate.
Complainant Shahid Hussain through Ms. Zubaida K. Jamali, advocate.
State through Mr. Sagheer Ahmed Abbasi, APG.

ORDER

FAHIM AHMED SIDDIQUI, J:- The applicants Farhana, Abdul Ghaffar and Shaor are seeking post arrest bail in case registered against them at PS Al-Falah, Karachi through F.I.R. No. 339/2018 under Sections 302 & 34 PPC. Their plea for bail was already declined by the trial Court i.e. Additional Sessions Judge-VIII; Karachi East through impugned order dated 24-05-2019.

2. I have heard the arguments advanced by the learned advocates for the applicants, complainant and the learned APG and also perused the record and citations placed before me.

3. The allegations against the applicants are that they have taken an active part in a quarrel between their father namely Abdul Sattar (now deceased) and their mother namely Hameeda (main accused) and provided full assistance to their mother in beating their father, which resulted in his death.

4. The names of applicants Ferhana and Shaor do not appear within the body of F.I.R. and the same was subsequently surfaced during investigation through the mouth of main accused Hameeda.

5. All the above mentioned applicants are minor as per Hulia Form and the opinion of police about their minor age was entertained by the learned

Judicial Magistrate at the time of accepting separate Final Report for the above named minor offenders and taking cognizance. The trial Court also framed charge against the applicants separately, which indicates that the trial Court has also acknowledged that the applicants are minors.

6. The educational documents annexed with the instant bail application indicates that applicant Ferhana was born on 08-01-2001 and she is a student of intermediate. Similarly, applicant Abdul Ghaffar was born on 25-04-2002 and he is a student of matriculation while applicant Shaor was born on 31-07-2004 and presently studying in class VIII. From the above record, it appears that applicant Ferhana is slightly above the age of 18 years but on the date of on the date of commission of offence i.e. 03-02-2018, she was definitely a minor.

7. It appears that the offence is a result of domestic quarrel between husband and wife in which the wife has involved the minors, who might have provided some assistance to the main accused but the tender age of the accused ought to be considered at the time of disposal of a bail plea on their behalf.

8. No doubt, the offence is heinous but nothing on the record has come from some independent source that the accused persons have taken part in the incident in a planned manner. Rather, it can be said that the applicants, being minor in age, have acted in commission or concealment of offence under the influence of man accused i.e. their mother Mst. Hameeda.

9. From the educational record of the applicants, it appears that they are stupendous students in their classes and confinement in jail will cause great loss to their education. It is to be observed that the applicants are not only minors but the first offenders and usually the cases of minor covers under the first proviso of Section 497 of the Code of Criminal Procedure and no exceptional grounds are available to decline their bail plea.

10. The ultimate outcome of the above discussion is that the applicants are admitted to post arrest bail subject to furnishing surety of Rs. 100,000/- to the entire satisfaction of the trial Court solely on the ground of being minor in age through my short order dated 26-07-2019 and these are the reasons for the same.

11. It is also observed that the trial of the applicants should be done in camera as per provisions of JJSA and Sindh Children Act.

JUDGE

Dated: _____