

ORDER-SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Bail Application. Nos. S- 1482/2017.

Date of hearing	Order with signature of Judge
21.11.2017.	

Mr. Amir Nawaz, advocate for applicant.
Mr. Habib-ur-Rehman Jiskani, advocate for complainant.
Mr. Muntazir Mehdi, DPG for the State.

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**Fahim Ahmed Siddiqui, J:** Instant post arrest bail is filed on behalf of applicants Rais Khan and Shah Jahan Khan who are facing trial in a criminal case originated through FIR 22/2017 lodged at PS Kalakot, Karachi against the applicants and others under Sections 302, 324 & 34 PPC.

2. I have scanned the record in the light of valued submissions made before me. From the hearing and perusing the record, I have observed as under:

- (a) The allegations against the applicants are that they have taken part in an incident of firing due to which two persons namely Hakim Khan and Mehar Khan received fire-arm injuries, amongst them Hakim Khan aged about 35/36 years expired. As per FIR, the applicants along with co-accused came to a hotel and opened fire where the two ill-fated brothers were chitchatting and enjoying cups of tea.
- (b) The motive of the incident is described within the body of FIR and the same is specifically alleged against the applicants.

- (c) It is the case of the applicants that one of the co-accused namely Sultan Sikandar, who succeeded in getting confirmed pre-arrest bail from this Court, vide order dated 09-08-2017 passed in Bail Application No. 355 of 2017. The contention of the counsel for the applicants is that the part assigned to the applicants is similar to that of co-accused, whom pre-arrest bail has already been granted.
- (d) The counsel for the complainant argued that the applicants have specific part in the incident and they have acted with high-handedness. However, he could not differentiate the part assigned to the applicants with that of the co-accused whom pre-arrest bail was granted.
- (e) The learned DPG has given his statement that the State intends to file an application for cancellation of pre-arrest bail granted to co-accused Sultan Sikandar, as in his opinion he was not entitled for extra-ordinary relief of pre-arrest bail. However, in response to a query, he admits that so far no application for cancellation of bail is filed.
- (f) I have gone through the order passed in pre-arrest bail to the applicant/co-accused Sultan Sikandar. The case of both the applicants is at par to the applicant Sultan Sikandar whom pre-arrest bail was granted.
- (g) Since co-accused on almost the same grounds have been granted pre-arrest bail by this Court therefore judicial propriety demands that benefit of rule of consistency should be given to the applicant. I am of the view that only intention of the prosecution to challenge the pre-arrest bail granted to applicant Sultan Sikandar will not a ground for denying such relief to the applicants.

3. In view of the above observation, a case of post arrest bail is made out in favour of the applicants; as such the applicants are enlarged on bail subject to furnishing solvent surety of Rs. 2,50,000/- (Two hundred fifty thousand) each up to the entire satisfaction of the trial Court.

4. It is further directed that if after getting bail, the applicants misused the same or became absconders then the trial Court would be empowered to take any action against the applicants and their surety including 'cancellation of bail' without making a reference to this Court.

JUDGE