

Presented on

07 JUN 2018

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA.

1st Criminal Bail Application No. 275 of 2018

WAZEER ALI

Son of Mehrab Janwari resident of
Village Tijo Khan Janwari, Taluka Mirokhan
(Now confined in central prison larkana:

.....Applicant.

Versus,

The State,

.....Respondent.

Off: U/S:324,34 PPC.

Crime No. 114 of 2014 of
Police Station "A" Section
Shahdadkot.

BAIL APPLICATION U/S 497 CR.P.C.



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IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No.S-270 of 2018

Applicant : Wazir Ali s/o Mehrab Janwari
Through Mr.Khadim Hussain Khoso,
Advocate

Complainant : Hubdar Ali Janwari,
Through Mr.Ahmed Bux Abro, Advocate

State : Through Mr.Raja Imtiaz Ali Solangi, A.P.G.

Date of hearing : 06.08.2018

Date of order : 06.08.2018

ORDER

IRSHAD ALI SHAH, J.- It is alleged that the present applicant with rest of the culprits in furtherance of their common intention being armed with deadly weapons, fired and injured complainant Hubdar Ali and PW Gulzar Ahmed with intention to commit their murder when they came to attend the Court of learned Additional Sessions Judge, Shahdadt, to record their evidence, for that the present case was registered.

2. On having been refused post-arrest bail by learned trial Court, the applicant has sought for the same from this Court by way of instant application under section 497 Cr.PC.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party on account of previous enmity, there is



counter version of the incident and accused involved in that case have already been admitted to bail, the applicant is in custody since date of his arrest, the complainant and his witnesses are related inter-se. By contending so, he sought for release of the applicant on bail on point of further enquiry.

4. Learned counsel for the complainant and learned A.P.G have opposed to grant of bail to the applicant by contending that the applicant is neither innocent nor is involved in this case falsely, he has actively participated in commission of incident by causing fire shot injury to PW Gulzar Ahmed at his flank with intention to commit his murder, the counter version of the incident is managed by the applicant with a view to get undue relief and the applicant is defeating conclusion of the case for one or other reason. By contending so, they sought for dismissal of bail application of the applicant.

5. I have considered the above arguments and perused the record.

6. The name of the applicant is appearing in the FIR with specific allegation that he with rest of the culprits in furtherance of their common intention went over to the complainant party and ~~there~~ caused fire shot injuries to complainant Hubdar Ali and PW Gulzar Ahmed with intention to commit their murder only to prevent



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them from recording their evidence before the Court of learned Additional Sessions Judge, Shahdadkot. The specific role of causing fire shot injury to PW Gulzar Ahmed at his flank with intention to commit his murder is attributed to the applicant. On arrest from the applicant has also been secured the crime weapon. In that situation, it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party on account of previous enmity. The enmity between the parties may be there but it may not be reason for involvement of the applicant in this case falsely. The complainant and his witnesses may be related inter-se but their relationship is not enough to disbelieve them at this stage, they are appearing to natural witnesses to the incident. The applicant may be in custody since the date of his arrest but such fact is not enough to enlarge him on bail, as it is he who as per learned counsel for the complainant and learned A.P.G has been found to be defeating the conclusion of the case. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged. If for the sake of arguments, it is believed that there is counter version of the incident and the accused involved therein have already been admitted to bail, even then such fact is not enough to admit the applicant to bail in case like present one by making a conclusion that his case is calling for further enquiry.



7. In case of Nasrullah Khan vs. Mst. Bas Khandana and another (1997 MLD-2071), it has been held by the Hon'ble Court that;

"S.497/498---Bail---Counter version---Counter version by itself cannot be pressed into service as of right for grant of bail unless there is a scope of further inquiry in the matter".

8. In case of Imranuddin and another vs. The State (1983 SCMR-278), it has been held by the Hon'ble Court that;

"Mere fact that; in cross-case persons charged for having caused injuries have been released on bail--- Held no ground for releasing petitioners on bail particularly when allegations against them are more serious"..

9. In case of Nasir Muhammad Wassan and another vs. the State (1992 SCMR-501), it has been held by the Hon'ble Court that;

"Bail---Petition before Supreme Court---Court's below had exercised their discretion and refused to grant bail, Supreme Court, held, would be reluctant to interfere with such discretion unless it was exercised contrary to the principles laid down by Supreme Court, was in disregard of the principles governing the

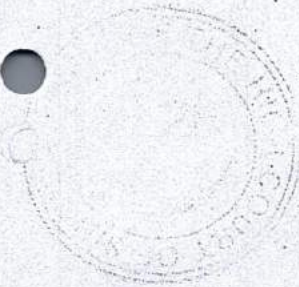


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administration of criminal justice and/or was perverse".

10. In view of facts and reasons discussed above, it could be concluded safely that the applicant is not found entitled to be released on bail, consequently, his application for his release on bail is rejected.

Sd/- Irshad Ali Shah, Judge.



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