

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr.B.A.No.S-1031 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.

23.11.2020.

Mr. Afzal Karim Virk, Advocate for applicants.
Ms. Rameshan Oad, A.P.G for the State.
Mr. Abdul Aziz Memon, Advocate for the
complainant.

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Irshad Ali Shah J:- It is alleged that the applicants with rest of the culprits after having been formed an unlawful assembly and in prosecution of their common object not only committed Qatl-i-Amd of Jamal but caused hatchet blows to PWs Kamal, Jaffer, Ibrahim, Nizam, Achar, Ramzan and Mst.Jamiyat with intention to commit their murder and then went away by insulting complainant Bego, for that the present case was registered.

2. The applicants on having been refused post arrest bail by learned Additional Sessions Judge-1/Judge Model Criminal Trial Court, Tharparkar at Mithi have sought for the same from this court by way of instant application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy its dispute with them over passage; the FIR has been lodged with delay of about one day and no effective role in commission of incident is attributed to the applicants. By contending so, he sought for release of the applicants on bail, on point of further enquiry. In support of his contention he relied upon case of *Attaullah vs The State (2020 SCMR 451)*.

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicants by contending that the delay in lodgment of FIR has been explained plausibly, the applicants have actively participated in the commission of incident. In support of their contentions they relied upon cases of *Mulo Ahmed vs The State (2011 MLD 1171)*, *Kadir Bux alias Porho vs The State (2012 P.Cr.L.J 690)* and *Abbas Ali vs The State (2014 P.Cr.L.J 1791)*.

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

6. The role attributed to the applicants in commission of incident is only to the extent of instigation and / or mere

presence. Parties are already disputed over issue of passage. In that situation, the involvement of the applicants in commission of incident is calling for further inquiry.

7. The case law which is relied upon by learned D.P.G for the State and learned counsel for the complainant could not be given preference over the case law which is relied upon by the learned counsel for the applicant as same has been laid down by Hon'ble apex Court.

8. In view of above, the applicants are admitted to bail subject to their furnishing surety in sum of Rs.200,000/- each and PR bonds in the like amount to the satisfaction of learned trial court.

9. The instant bail application is disposed of accordingly.

JUDGE