

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-1037 of 2020

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

12.02.2021.

Mr. Ghulam Nabi Jarwar, Advocate for applicants.
Ms. Sobia Bhatti, A.P.G for the State.
Mian Taj Muhammad Keerio, advocate for complainant.

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ORDER

Irshad Ali Shah J:- It is alleged that the applicants with the rest of the culprits after having formed an unlawful assembly and in prosecution of their common object by making trespass into house of complainant Ghulam Mustafa, not only committed murder of Ghulam Qadir, but caused injuries to the complainant, PWs Abdullah, Muhammad Usman and Mst. Salia with hatchets/lathies/iron rods with intention to commit their murder too and then went away by insulting the complainant party, for that the present case was registered.

2. The applicants on having been refused post arrest bail by learned 1st Additional Sessions Judge, Tando Allahyar have sought for the same from this Court by way of making 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 without lawful justification; the names of the applicants are not mentioned in Roznamcha entry which was recorded initially by the police; the FIR of the incident has been lodged with delay of about one day and no specific injury to the deceased or to any injured is attributed to any of the applicant. By contending so, he prayed for release of the applicants on bail on point of further enquiry.

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to release of the applicants on bail by contending that they have actively participated in commission of incident.

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

6. The applicants are named in FIR with specific allegation that they after having formed an unlawful assembly and in prosecution of their common object being armed with hatchets/lathies and iron rods by making trespass into the house of complainant not only committed murder of Ghulam Qadir by causing him hatchets/lathies and iron rod blows but caused hatchets/lathies and iron rods blows to the complainant and his witnesses with intention to commit their murder only satisfy their old enmity with them. In that situation, it would be premature to say that applicants being innocent have been involved in this case falsely by the complainant party. The applicants are apparently vicariously liable for the commission of incident; therefore, they could not be enlarged on bail only for the reason that

no specific injury either to the deceased or to any of the injured is attributed to them. The '*Roznamcha*' entry was recorded by the police of its own; therefore, non disclosure the names of the applicants or anyone else therein could hardly be said to be fatal to the case of prosecution. The delay of one day in lodgment of FIR was natural in the circumstance of the case, same even otherwise, could not be resolved by this Court at this stage. Deeper appreciation of facts and circumstances is not permissible at bail stage. There appear reasonable grounds to believe that the applicants are guilty of the offence with which they are charged. No case for release of the applicants on bail is made out. Consequently, instant bail application is dismissed with direction to learned trial Court to expedite disposal of the case preferably within three months after receipt of copy of this order.

JUDGE

Ahmed/Pa