

IN THE HIGH COURT OF SINDH, AT KARACHI

PRESENT:-

MR. JUSTICE SALAHUDDIN PANHWAR

MR. JUSTICE SHAMSUDDIN ABBASI.

Crl. Bail Application No.1151 of 2019

Applicants 1. Mushtaq Ahmed son of Munir Ahmed
2. Manzoor Ali son of Elahi Bux Mangi
through M/s Shahid Hussain Soomro and
Sajid Hussain Soomro, Advocates.

Respondent The State through Mr. Fahim Hussain
Panhwar, D.P.G.

Crl. Bail Application No.1177 of 2019

Applicants Ishtiaq Sarki son of Munir Ahmed
through Mr. Dildar M.S. Shaikh, Advocate.

Respondent The State through Mr. Fahim Hussain
Panhwar, D.P.G.

Date of hearing 13.09.2019

Date of recording
detailed reasons 17.09.2019
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ORDER

SHAMSUDDIN ABBASI, J:- Through captioned bail applications, applicants Mushtaq Ahmed, Manzoor Ali and Ishtiaq Sarki seek post-arrest bail in FIR No.352 of 2019 under Sections 365, 324, 337-A{i}, 506, 504, 334 and 34, PPC read with Section 7 of Anti-Terrorism Act, 1997, registered at Police Station Shahrah-e-Faisal, Karachi. The applicants are facing trial in the Court of learned Anti-Terrorism Court No.X, Karachi, in Special Case No.297 of 2019 and by an order dated 09.07.2019 their bail pleas were dismissed by a single order.

2. Since both applications relates to common order in same FIR, therefore, we deem it appropriate to decide the same together.

3. FIR in this case has been lodged on 13.04.2019 at 10.45 pm whereas the incident is shown to have taken place on the same day at 9.45 pm. Complainant Ghulam Muhammad son of Ali Akbar has stated that on the fateful day he alongwith his father Ali Akbar,

younger brother Touseef-ur-Rehman and Chowkidar Saeed Ahmed Soomro was present in Madressah "Ashraf-ul-Madaris", Gulistan-e-Jauhar, Karachi, and busy in painting the Dome of Masjid. It was about 9.45 pm when Mushtaq Sarki, Manzoor Mangi, Mir Hazar Odho, Atif, Nazeer Brohi and Ishtiaq Sarki came there on two jeeps, one with Registration No.KV-8727, and one motorcycle alongwith their 12 other accomplices armed with weapons. They entered in the Masjid and assaulted upon the complainant party, used abusive language and also made firing with intention to kill and due to such deadly assault his father became unconscious and the assailants kidnapped his father and forcibly took him with them in a vehicle and during commission of such assault they also used abusive language against police. Due to chaotic situation the area shops and marked got closed and people also got confined in their houses and while leaving the scene of crime the assailants also demolished the Domes of the Masjid and due to their such acts terror, panic and sense of fear and insecurity prevailed in their minds and public at large, hence this FIR

4. Pursuant to the registration of FIR, the investigation was followed and in due course the challan was submitted before the Court of competent jurisdiction under the above referred Sections.

5. It is jointly contented on behalf of applicants that they have been falsely implicated in this case by the complainant with malafide intention and ulterior motives on account of a dispute over landed property; that on 18.01.2018 applicant Manzoor Ali approached the Court of Ex-Officio Justice of Peace, District {East}, Karachi, seeking registration of FIR against land grabbers and protection as well under Section 22{A}{B}, Cr.P.C. for forcibly demolishing the boundary wall constructed around Plot No.119, Gulistan-e-Jauhar, Karachi, and an attempt of his kidnapping by land grabbers named in the application wherein directions were issued to the SHO concerned to take action if a cognizable offence is made out; that applicant Manzoor is a well-known journalist and he has exposed illegal acts of police particularly played an active role in the case of "Rajhanis", hence the police became annoyed and registered certain false criminal cases against him within a short

span of 13 days; that the dispute pertains to civil nature; the allegations are also general in nature and no specific role has been assigned to any of the applicants. Lastly submitted that the case of the applicants calls for further inquiry and they are entitled to the concession of bail. In support of their submissions, the learned counsel for applicants have placed reliance on the cases of *Ahmed Nawaz Solangi and another v Court of Special Judge Anti-Corruption {Central} Hyderabad and another* {2014 YLR 1723}, *Syed Amanullah Shah v The State and another* {PLD 1996 Supreme Court 241}, *Tariq Bashir and 5 others v The State* {PLD 1995 Supreme Court 34}, *Ghulam Abbas v The State* {2017 MLD 1535} and *Dilmurad v The State* {2010 SCMR 1178}.

6. The learned DPG while opposing the bail pleas has submitted that the offence is heinous one and falls within the ambit of prohibitory clause of Section 497, Cr.P.C. and that ocular evidence supports the medical evidence, hence the applicants do not deserve concession of bail at this stage.

7. Heard arguments and perused the record.

8. Complainant has shown 18 persons as accused in the FIR including the present applicants but none of them have been attributed any specific role and the allegations are general in nature. The applicants have claimed their false implication on account of a civil dispute over landed property. The complainant has disclosed in the FIR that accused persons made joint firing with intention to kill them but none from the complainant party has sustained any bullet injury due to such firing nor any empty shell has been shown recovered from the place of incident. Insofar as the injury caused to PW Ali Akbar is concerned, he has not alleged in his 161 Cr.P.C. statement that which accused had caused such injury. In view of this background of the matter, the case of the applicants falls within the ambit of further inquiry in terms of Section 497, Cr.P.C. Besides, the challan has already been submitted and the applicants are no more required for any further investigation as well the prosecution has not claimed any apprehension of absconsion of applicants during trial, if they are released on bail. Accordingly, the applicants are

admitted to bail subject to their furnishing solvent surety in the sum of Rs.50,000/- each and P.R. Bonds in the like amount to the satisfaction of the trial Court. Needless to mention that the observations made herein above are of tentative assessment and the trial Court shall not be influenced by the same while deciding the case(s) of the applicants on merits.

9. Foregoing are the reasons for our short order dated 13.09.2019, whereby captioned bail applications were granted.

JUDGE

JUDGE

Naeem