

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. B.A. No.S- 527 of 2021

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DATE

ORDER WITH SIGNATURE OF JUDGE(S)

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1. For orders on office objection.
2. For hearing of main case.

05.11.2021

Mr. Sulleman Dahri, Advocate for the applicant.

Mr. Shahid Ahmed Shaikh, Additional Prosecutor General Sindh.

Complainant Rabdino present in person.

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**Amjad Ali Sahito, J:** Through instant bail application, applicants Ali Hassan and Khuda Bux seek post-arrest bail in Crime No.35 of 2020, registered at Police Station Kario Ganhwar District Badin, under section 302, 201, 371-A, 371-B, 376(ii), 34 PPC. Earlier, the bail plea of the applicants was declined by the learned I-Additional Sessions Judge/MCTC, Badin, vide order dated 27.01.2021 hence they approached this Court seeking same relief.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, need not to reproduce the same hereunder.

3. Learned counsel for the applicants has contended that the applicants are innocent and have falsely been implicated in this case; that there is 08 days' delay in lodgment of the FIR, which has not been explained plausibly; that unbelievable story has been narrated by the complainant; that two investigations were conducted in this case; that the ocular evidence does not find support from medical evidence; that co-accused, the husband of the deceased Mst. Sabhagi, Akram Chandio has been granted bail by the trial Court; that DNA report is in negative; that the applicants are in jail since their arrest and are not required for any further investigation, as such the case of the applicants requires further inquiry and they are entitled for bail.

4. On the other hand, learned A.P.G appearing for the State vehemently opposed the grant of bail to the applicants on the ground that delay in lodgment of the FIR has been plausibly explained by the complainant; that the applicants are involved in heinous offence; that the DNA report is positive

and has matched with accused/applicant Ali Hassan; eye-witnesses Muhammad Moosa and Anwar have deposed against the accused persons, as such sufficient material is available on record to connect the applicants with the commission of alleged offence.

5. I have considered the contentions of the learned counsel for the applicants and learned A.P.G. for the State so also gone through the material available on the record. The case of the prosecution is that one Akram Chandio sold out his wife Mst. Sabaghi to Papu Chandio for prostitution against Rs.2,000/-, who called his friends Ali Hassan and Khuda Bux (present applicants); thereafter, at first Papu has committed rape with Mst. Sabaghi and then Khuda Bux and Ali Hassan have committed rape with her. Thereafter, accused persons by holding neck of Mst. Sabaghi, collided her head with acacia tree thereby inflicted blows to her, and she died due to such injuries. Further, the DNA test was conducted and as per such report it has matched with applicant Ali Hassan. P.Ws Muhammad Moosa and Anwar being eye-witnesses of the incident have supported the version of the complainant. The ocular evidence finds support from medical evidence. During pendency of this case, progress report was called from the trial Court which is received and shows that out of 15, 09 prosecution witnesses have been examined. It is settled principle of law that once case has proceeded at that time if any observation is made by the Court, will prejudice the case of either party. In such situation grant or refusal of bail will prejudice the case of either party before the trial Court.

6. In view of above, the bail application is dismissed. However, the trial Court is directed to expedite the matter and conclude the same preferably within a period of 45 days from today and no adjournment to either party shall be granted on any flimsy ground.

JUDGE

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