

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.S-254 of 2022
Criminal Bail Application No.S-472 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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25.04.2022

M/s. Muhammad Sachal A. Awan and Altaf Sachal Awan,
Advocates for applicants.
Ms. Safa Hisbani, Assistant Prosecutor General, Sindh for State.
Mr. Imtiaz Ali Abbasi, Advocate for complainant.

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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 not only committed murder of Mst. Bano and Aijaz by causing them fire shot injuries but also caused fire shot, hatchet, dagger, iron rods and butt blows to complainant Muhammad Ashraf, PWs Imtiaz, Shahbaz, Riaz, Mst. Rizwana and Mst. Mehak, for that the present case was registered.

2. The applicants on having been refused post arrest bail by learned Model Criminal Trial Court-I Hyderabad have sought for the same from this Court by making two separate applications 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 old grudge with them; the F.I.R of the incident has been lodged with delay of about one day and they have been attributed unspecified role of causing fire shot injuries to PWs Imtiaz and Shahbaz; the medical evidence is in

conflict with the ocular evidence and injuries sustained by PW Shahbaz are under examination by medical board, therefore, the applicants are entitled to be released on bail on point of further inquiry. In support of their contentions, they relied upon case of *Awal Khan and 7 others Vs. The State through AG-KPK and another [2017 SCMR 538]*.

4. Learned Assistant Prosecutor General, Sindh for the State and learned counsel for the complainant have opposed to release of the applicants on bail by contending that the applicants have actively participated in commission of incident by causing fire shot injuries to PWs Imtiaz and Shahbaz and their applications for grant of pre-arrest bail have been dismissed by this Court on merits. In support of their contentions, they relied upon cases of *Muhammad Hussain alias Zangi Vs. The State and another [2008 YLR 2392]* and *Bilal Khan Vs. The State through P.G., Punjab and another [2020 SCMR 937]*.

5. Heard arguments and perused the record.

6. The applicants are named in FIR with allegation that they being armed with deadly weapons, hatchets, iron road and dagger after having formed an unlawful assembly and in prosecution of their common object went over to the complainant party and by that act not only committed murder of two persons but caused injuries to seven others. The applicants are specifically named in F.I.R for causing fire shot injuries to PWs Imtiaz Ali and Shahbaz Ali. In that situation, it would be premature to say that the applicants being innocent have been involved in this case falsely. No specific injury to the said injured is attributed to the applicants but for this fact alone

the applicants could not be admitted to bail simply for the reason that it was humanly impossible for the complainant to have captured all the minor details of the incident with photogenic reception in case like present one. The delay in lodgment of F.I.R is explained in F.I.R itself. No conflict in medical evidence is apparent, if it is believed to be so, even then same could not be resolved by this Court at this stage, for the reason that deeper appreciation of facts and circumstances is not permissible at bail stage. The constitution of medical board for re-examination of injuries of PW Shahbaz is not enough to make a conclusion that the case is calling for further inquiry. There appear reasonable grounds to believe that the applicants are guilty of the offence with which they are charged.

7. The case law which is relied upon by learned counsel for the applicants is on distinguishable facts and circumstances. In that case the deceased was alleged to have been fired at Kalashnikov but from place of incident were secured by the police empties of 12 bore suggesting gunshot injuries to the deceased.

8. In view of above, it could be concluded safely that no case for grant of bail to the applicants is made out, consequently, the instant bail applications are dismissed with directions to learned Trial Court to expedite disposal of very case preferably within three months after receipt of copy of this order.

JUDGE

*Muhammad Danish**