

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No. D – 30 of 2020**DATE****ORDER WITH SIGNATURE OF HON'BLE JUDGE****Fresh case**

1. For orders on MA No.2290/2020 (U/A)
2. For orders on office objection at flag 'A'
3. For orders on MA No.2291/2020 (Ex.A)
4. For hearing of bail application

21.05.2020

Mr. Sudhamchand @ Sudhamo Kewalramani Advocate for the
Applicants/accused

Mr. Khalil Ahmed Maitlo, DPG for the State

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AMJAD Ali SAHITO, J.- Through the instant application, the applicants/accused

Sajan Ghoto, Abdul Aziz Lakho, Majid Ali Siyal, Ahtesham Memon, Saifullah Mahar, Jamshed Ali Rajput, Mukhtiar Ali Kakro, Babal Sanghar, Shoukat Ali Malik, Kamran Qazi, have sought for grant of post-arrest bail in Crime No.135/2020 for offences punishable under Sections 224, 225, 324, 353, 147, 149, 427 PPC and 7 Anti-Terrorism Act, 1997 registered at Police Station 'A' Section Ghotki, District Ghotki. Prior to this applicants/accused filed their separate post-arrest bail applications before learned Judge, Anti-Terrorism Court Ghotki at Mirpur Mathelo, which was dismissed vide common order dated 19.05.2020, hence this post-arrest bail application.

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

3. Learned counsel for the applicants/accused contended that the applicants are innocent and have been falsely implicated in this case by the police just to show their efficiency; that as per FIR no such panic or terrorism sprayed in the locality, whereas, Section 7 Anti-Terrorism Act, 1997 has been misapplied by the police just to increase the gravity of the offence because the police has shown the arrest of ten accused persons at the spot and preparation of mashirnama; that it is not specifically mentioned in the FIR that the applicants/accused were armed with which type of weapons; that there is no independent eye-witness or mashir shown in the FIR, although all the PWs and mashirs are police officials and subordinates of the complainant; that not a single scratch or injury has been received by the police party, whereas, the police vehicle No.SPG-015 was shown damaged in Crime No.41/2020 of P.S Airport Sukkur; that the applicants/accused Sajan, Ahtsham and Saifullah are engaged private employees of BMC Hospital Ghotki, whereas, remaining applicants are studying in higher education, hence due to implication in this false case their future career would be ruined; that the applicants/accused have no concern with the accused of Crime No.13/2014 u/s 302 PPC of P.S Airport; that there is business rivalry between Rao Muhammad Shakir, Niaz and Sharif Khoso hence present case is the result of such rivalry; that number of civil as well as criminal cases are pending in different Courts between them including Apex Court of Pakistan; that prior to this there is no criminal record of the applicants/accused; that the case has been challaned, hence the applicants/accused are no more required for further investigation; that the guilt of the applicants/accused requires further enquiry as envisaged under Sub-Section(2) of Section 497 Cr.P.C. He lastly prayed that the applicants/accused are entitled for the concession of post-arrest bail. In support of his contentions,

he has relied upon the cases of *Asmat Ali Vs. The State and another (2008 Y L R 2408 [Peshawar]*; *Sheroo and others Vs. The State (2012 Y L R 1383)* and *Muhammad Siddique and 4 others Vs. The State (2012 Y L R 1191 [Sindh]*.

4. On the other hand learned Deputy Prosecutor General for the State has argued that the applicant/accused are nominated in the F.I.R and they were apprehended at the spot and such mashirnama was prepared at the spot; that the government vehicle has been damaged by the applicants/accused, hence the applicants/accused are not entitled for concession of bail, therefore he supported the impugned order and prayed for dismissal of instant bail application.

5. We have heard the learned counsel for the applicants/accused as well as learned Deputy Prosecutor General for the State and have gone through the memo of bail application as well as the impugned order passed by learned trial Court. As per prosecution version, on 10.05.2020 at about 0345 hours, the complainant along with his subordinates went to BMC Ghotki for execution of the Warrant issued by the Court. It is alleged that on reaching there the complainant acquainted the accused of the warrant but they started pelting stones, whereas, none from the police party has received a single scratch or injury at the hands of the present applicants/accused. The allegations leveled against the present applicants/accused are of general in nature, no specific role has been assigned against any of the applicants/accused, and it is yet to be determined by the trial Court after recording the evidence as to whether the present applicants/accused participated in the commission of the allege offence or not. There is no independent witness to the incident. The applicability of Sections 7 Anti-Terrorism Act, 1997 as well as 324 PPC would be determined at

the time of trial. As per record the applicant is having no criminal history. In such circumstances, the case against applicants/accused calls for further enquiry in terms of sub-section (2) of Section 497 CrPC.

6. In the view of above, the applicants/accused are entitled for grant of bail. Accordingly the instant bail application is allowed and the applicants/accused are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- (Fifty thousand) each and PR bond in the like amount to the satisfaction of Additional Registrar of this Court.

7. Needless to mention that the observations made hereinabove are tentative in nature and would not prejudice the case of either party at trial.

Judge

Judge

ARBROHI