ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 672 of 2022

Date Order with signature of Judge

For hearing of bail application

11th October 2022

Mr. Amanullah Khan Yousufzai advocate for the applicants Ms. Seema Zaidi, Additional Prosecutor General Sindh Mr. Mushtaq Ahmed Jahangiri advocate for the complainant

Salahuddin Panhwar, J.-The applicants have sought pre-arrest bail in Crime No.110/2022 for offence under Sections 302/324/34 PPC registered at P.S Saeedabad, wherein it is alleged by the complainant that applicants with rest of the culprits by causing fire shot injuries committed murder of Bahadur Khan and injured him and P.W Eid Muhammad.

2. Learned counsel for the applicants contended that applicants have been falsely involved in this case against the actual facts and circumstances; that actually complainant party launched attack by firing on the applicants and others, in which fires hit to the complainant, deceased and P.W Eid Muhammad; that there is general allegation of firing against the applicants in the FIR; that applicant No.2 was not present at the time of alleged incident; that there is unexplained delay of 3½ hours in lodgment of the FIR; that applicant No.2 was even not present at the time of incident, hence the intended arrest of the applicants is not free from the taints of mala fide, hence he prayed for grant of pre-arrest bail to the applicants. In support of his contentions, he relied upon the cases of Manzoor Hussain and another vs. The State (2011 SCMR 902) and Shahzada Qqaiser Arfat alias Qaiser vs. The State and another (PLD 2021 S.C 708). 3. On the other hand, learned Addl: Prosecutor General, Sindh duly assisted by learned counsel for the complainant contended that applicants are nominated in the FIR and specific role of firing upon the deceased and injured persons has been attributed to them. During the course of investigation, the injured PWs have fully involved the applicants in their statements recorded under section 161, Cr.P.C, therefore, they sought for dismissal of instant bail application.

4. Heard and perused the record.

5. Admittedly, the occurrence took place in the broad day light; the parties are unknown to each other; specific role of causing fire shot injuries is attributed to the applicants; that the P.Ws have fully involved in the applicants in their statements recorded under Section 161 Cr.P.C. Learned counsel for the applicants has failed to point out any malafide on the part of the complainant or the local police to falsely implicate the applicants in the present case, in absence of any apparent mala fide, the applicants cannot claim extraordinary/equitable concession of pre-arrest bail in a criminal case wherein one person lost his life and two others endured fire shot injuries. No doubt there is delay of about 3¹/₂ hours in lodgment of the FIR, but such delay per-se is no ground for grant of bail, if otherwise accused appears to be linked with offence with which he is charged. With regard to false implication of the applicants and plea of alibi with regard to applicant No.2, the same would be resolved by the learned trial court after recording of evidence. Arguments addressed by the learned counsel for the applicants, being part of post-arrest agenda, cannot be attended at pre-arrest bail stage, certainly not a substitute for post arrest bail. Prima facie, there is sufficient material available on the record to connect the applicants to guilt as alleged which entails capital punishment. The case law relied upon by the learned counsel for the applicant is distinguishable from the facts of instant case, hence is not applicable.

6. For the foregoing reasons, the applicants have failed to make out a case for grant of pre-arrest bail, therefore, order granting ad-interim pre-

arrest bail to them is hereby recalled and consequently, instant application is dismissed.

JUDGE

Sajid