

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1046 of 2021

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

16th November, 2021

Mr. Abdul Qudoos, Advocate a/w applicants.

Mr. Abrar Ali Khichi, Addl.P.G. a/w SIP Nazar Muhammad of P.S. Steel Town.

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Omar Sial, J: Muhammad Azim and Dad Muhammad have sought pre-arrest bail in crime number 209 of 2012 registered under sections 324, 109 and 34 P.P.C. at the Steel Town police station. Earlier, their application seeking bail was dismissed by the learned 3rd Additional Sessions Judge, Malir on 25-5-2021.

2. Facts of the case are that the aforementioned F.I.R. was lodged on 18.7.2012 on the complaint of Ghulam Hussain. He recorded that he worked in the police department and had an enmity with the Jakhrani tribe for the last 14 to 15 years. Because of the enmity, he had to move to Karachi whereas his brother is in jail in connection with a case based on the same enmity. On 5.7.2012 when he was about to leave for work there was a knock in his door. When he went to see who was at the door he saw the 2 applicants with pistols in their hands. Applicant Mohammad Azeem fired at the complainant, which shot hit the complainant on the left leg. The applicants then left the scene.

3. I have heard the learned counsel for the applicants as well as the learned Additional Prosecutor General. The complainant's counsel preferred to remain absent.

4. The F.I.R. was registered in the year 2012. It is only now that the applicants have sought pre-arrest bail in the case. According to the applicant's counsel the applicants live in Jacobabad whereas the case was registered in Karachi. According to him they had no idea about the pendency of the case till very recently. That is why they had themselves surrendered. It appears that the long delay in surrendering before the trial court was the primary reason for the learned trial court to dismiss their bail. Keeping in view the fact that there is

an admitted enmity between the parties which saw the complainant side allegedly murdering the brother of applicant Muhammad Azeem, malafide on the part of the complainant to register the case cannot be conclusively ruled out. Doubt is also created as to why the complainant take 13 days to register the F.I.R. especially when according to him he himself was a police official. Deliberations and consultations before lodging the F.I.R. cannot therefore be conclusively ruled out at this stage. At this stage I am inclined to take a lenient view on the absconsion of the applicants until such time as the learned trial court is in a position, after evaluating the evidence, whether such absconsion was intentional.

5. Above are the reasons for the short order dated 03.11.2021 whereby the bail was confirmed on the same terms and conditions.

JUDGE