

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

Cr. Bail Appl. No. D- 40 of 2010

DATE

ORDER WITH SIGNATURE OF JUDGE

15.9.2011

Mr. Zahoor A. Baloch advocate for applicant
Mr. M. Iqbal Kalhoru APG

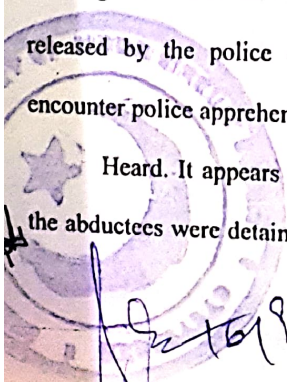
Through this application, applicant Muhammad Rafique Channa who has been booked along with others in Crime No. 32 of 2010 of police station Sehwan for offence under section 365-A, 344 PPC, 17(3) Offence Against Property (Enforcement of Hudood) Ordinance, 1979 R/W 6/7 ATA seeks post arrest bail. His bail plea has been turned down by the Trial Court vide order dated 22.7.2010.

Per prosecution on 17.2.2010 at about 5:30 a.m complainant Muhammad Saleh and P.Ws Abdullah were abducted by seven armed culprits out of them six were armed with Kalashnikov while the rest with gun. Thereafter complainant Muhammad Selh was kept in captivity in the house of present applicant. Subsequently complainant and Imam Bux were released from the clutches of accused during an encounter and accused including the present applicant were apprehended along with weapons.

Mr. Zahoor A. Baloch, learned counsel for the applicant has contended that co-accused Zafar Jalbani and Arshad Hussain Shaikh have been granted bail by the Trial Court on the basis of affidavit filed by the complainant whereby he exonerated them from the commission of offence. Per learned counsel though co-accused have been granted bail but present applicant was refused bail on the very same ground as the complainant has also filed affidavit whereby he exonerated the present applicant and categorically stated that applicant has been implicated on hearsay information.

On the other hand Mr. M. Iqbal Kalhoru learned APG opposed the application on the ground that name of present applicant finds place in the FIR and abductees were released by the police during encounter with the accused party and during that encounter police apprehended present applicant along with weapon.

Heard. It appears that name of applicant transpires in the FIR. After abduction the abductees were detained in the house of present applicant. The abductees were also



recovered from the clutches of criminals and the present applicant was the member of that gang. Even upon perusal of affidavit we do not find that the complainant has exonerated the present applicant from the commission offence. Para-2 of the affidavit reveals that if the applicant/accused is granted bail complainant has no objection. Neither the name of present applicant has been mentioned in the affidavit nor the complainant has exonerated him. So far the case of co-accused Zafar Jalbani and Arshad Hussain Shaikh who have been granted bail is concerned, same is distinguishable as their names did not appear in the FIR nor they were put to identification parade.

For the foregoing reasons, ^{we} do not find any merit in the instant application which is accordingly dismissed.

Sd/- AHMED , ALI M. SHAIKH
JUDGE.

Sd/- NISAR MUHAMMAD SHAIKH,
JUDGE.

CERTIFIED TRUE COPY.

ASST. REGISTRAR. 16/9/14
CR. B.A. NO. B-40 OF 2010. NO. 78504 BT 17-9-14

Certified true copy forwarded to the learned Special Judge Anti-Terrorism Court Hyderabad for information and compliance.



ASST. REGISTRAR. 16/9/14
HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD.

26/9/14