

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Appln: No.S-58 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For orders on office objection
For hearing of main case

03.04.2023

Mr. Abdul Mueed Shaikh advocate along with applicants.
Mr. Tarique Mehboob advocate for complainant.
Mr. Abdul Waheed Bijarani A.P.G. for the State.

MUHAMMAD IQBAL KALHORO,J- On 14.10.2022 when complainant was present along with his peasant / hari Fida Hussain and other PWs on his land Chak No.36, deh Sidarat, Taluka Sanghar, applicants / accused duly armed with deadly weapons i.e. gun, iron rods and lathies on account of dispute over the said land accosted them; complainant party then threatened them to vacate the said land otherwise they would not be spared. After which co-accused Azam Masih instigated other co-accused to attack upon the complainant party, at his instance, applicant Shamshad Masih caused an iron rod blow on left side of head of peasant Fida Hussain Laghari and applicant Dilmurad Masih gave him a lathi blow on his left eye, whereas the other accused caused blows to PWs Nazeer Ahmed and tractor driver Zareef Marri on different parts of their body. The co-villagers intervened and thereafter accused party left the place of incident while making aerial firing. The injured Fida Hussain Laghari who had fallen down on the ground meanwhile expired. Police was duly intimated and after necessary formalities, on the next day, the matter was reported.

Learned counsel for the applicants has submitted that applicants are innocent and have been falsely implicated in this case ; they were not present at the spot when the incident occurred.

On the other hand, counsel for the complainant and learned A.P.G. have opposed bail stating that applicants are the main accused saddled with the role of causing death of Fida Hussain Laghari.

I have considered submissions of parties and perused material available on record. Applicants are nominated specifically in F.I.R. of causing fatal blows to deceased Fida Hussain Laghari. Applicant Shamshad was armed with iron rod and he gave a blow on head of deceased Fida Hussain, and applicant Dilmurad also gave him a lathi blow on his left eye causing his death. In view of the specific role, the applicants are not entitled to

extraordinary concession of pre-arrest bail which is extendable only to those accused who are prima facie implicated in the case falsely on the basis of malafide or ulterior motive by the complainant or police. The case of the applicants / accused is totally different from such proposition. This being the position, I do not find merit in this application which is accordingly dismissed and ad-interim pre-arrest bail granted to the applicants vide order dated 19.01.2023 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not cause prejudice to either party on merits before the trial Court.

JUDGE