

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 1456 of 2022

For hearing of Bail Application.

Applicants/ Accused : Abdul Hameed son of Bashir, Abdul Sattar son of Akbar, Abdul Razzaq son of Abdul Lateef, Majid Ali son of Ghulam Mustafa, Abdul Latif son of Ahmed Faqeer and Amjad Ali son of Allah Bux, through Mr. Akhtar Husain, Advocate.

Complainant : Muhammad Anees son of Muhammad Ibrahim Jokhio through M/s. Fayyaz Ahmed and Ghulam Mustafa, Advocates.

The State : Through Mr. Muntazir Mehdi, Additional Prosecutor General Sindh.

Date of hearing : 05-04-2023

Date of order : 05-04-2023

*FIR No. 172/2022
U/s: 147, 148, 149, 302, 324, 504 PPC
P.S. Memon Goth, Malir.*

ORDER

Adnan Iqbal Chaudhry J. - The Applicants/ Accused seek post-arrest bail in the aforesaid crime after the same had been declined by the Additional Sessions Judge-I, Malir, Karachi by a common order dated 06-07-2022.

2. The incident is of a clash at Muhammad Ishaq Jokhio Goth on 28-05-2022 between the Jokhio clan (Complainant party) and the Hyderi Faqeer clan. Per the FIR, Imtiaz Ali *aka* Badshah of the Jokhio clan had provoked members of the Hyderi Faqeer clan outside their homes with foul language whereupon Roshan Faqeer, Asghar Faqeer and Ajeeb Faqeer emerged with firearms and opened fire on Imtiaz Ali, Anwar Jokhio and the Complainant Muhammad Anees of the Jokhio clan; that Imtiaz Ali returned fire which hit Ibn Faqeer; that

thereafter the fight escalated when other members from both clans joined in. In the aftermath there were four casualties, namely Imtiaz Ali *aka* Badshah, Jabbar and Anwar of the Jokhio clan and Ibn Faqeer of the Hyderi Faqeer clan. A number of persons were also said to be injured.

3. The Hyderi Faqeer clan came forward with their own version of the incident through Mst. Sajida, the grieving widow of Ibn Faqeer. By order dated 13-06-2022 passed by the IVth Additional Sessions Judge, Malir as Ex-Officio Justice of Peace, the I.O. was directed also to record the counter version by taking statements under section 161 Cr.P.C. That version was that in the backdrop of a land dispute the Complainant party viz. Muhammad Anees and others of the Jokhio clan attacked Ibn Faqeer's house armed with firearms, dandas and axes.

4. Heard the learned counsel, the learned APG Sindh and perused the record.

5. The Applicants belong to the Hyderi Faqeer clan. None of them were named or identified in the FIR but were rounded up subsequently.

6. The Applicants Amjad Ali and Majid Ali of the Hyderi Faqeer clan were arrested on 30-05-2022 on the pointation of the Complainant. Allegedly, during investigation, they led the police to the discovery of *dandas* used by them in the clash. However, it has yet to be ascertained who they had injured and to what extent.

7. The Applicant Abdul Latif was arrested on 10-06-2022 on the pointation of Zafar, who was allegedly one of the injured persons of the Jokhio clan. Per the investigation, Abdul Latif also led the police to the discovery of a *danda* used by him in the clash. However, the investigation report is vague as to the nature of injury specifically suffered by Zafar. Except for the injury under section 337-F (iii) PPC, the other injuries charged in the investigation report areailable.

8. The Applicants Abdul Razzaq, Abdul Hameed and Abdul Sattar were arrested on 19-06-2022, not on the identification of any of the complainant party but on spy information. On 23-06-2022, Abdul Hameed is said to have led the police to the discovery of a .30 pistol. However, it has yet to be ascertained whether that was the weapon used in the clash, and if so to cause what injury and to whom. The FIR does not attribute any pistol or firing to the Applicant Abdul Hameed.

9. The FIR manifests that the incident had been provoked by Imtiaz Ali *aka* Badshah of the Jokhio clan leading to an exchange of fire. Nonetheless, and even apart from the counter version of the Hyderi Faqeer clan that the Complainant party was the aggressor, the case against all of the above-mentioned Applicants is of further inquiry falling within the ambit of sub-section (2) of section 497 Cr.P.C. Therefore, the Applicants Abdul Hameed, Abdul Sattar, Abdul Razzaq, Majid Ali, Abdul Latif and Amjad Ali are granted bail in FIR No. 172/2022 subject to solvent surety in the sum of Rs. 100,000/- each along with P.R. bond of like amount to the satisfaction of the trial Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

SHABAN*

JUDGE