

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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**For Hearing of Bail Application.**

16.10.2017

Applicant is present in person.

Mr. Sardar Ali Shah, D.P.G.

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Having been rejected, his earlier bail application bearing No.702 of 2015 by the learned Sessions Judge Kamber-Shahdadkot vide order dated 09.09.2015, applicant Zulifqar son of Allah Dino Khokhar, through instant CrI. Bail Application, seeks pre arrest bail in Crime No.26/2015, registered at Police Station Behram, District Kamber-Shahdadkot, under sections 302, 148, 149, PPC. He was admitted to ad-interim bail by this Court vide order dated 17.12.2015, now he seeks confirmation of his bail.

Briefly stated the facts of the prosecution case are that on 28.06.2015, complainant Mohammad Younis Khokhar, lodged the aforementioned FIR stating therein that the sister of accused Ghous Bux, namely, Mst. Naila, was married with brother of complainant, namely, Mohammad Ibrahim alias Gogo Faqir. On the said day, he along with his brothers, namely, Mohammad Ibrahim alias Gogo Faqir, Mohammad Ishaque and nephew Nazir Hussain left their village for their agricultural land and when at about 06:30 a.m, they reached the land of one Ghulam Mustafa Laghari, accused Ghous Bux and Nisar armed with pistols, Jan Mohammad having hatchet along with three unknown accused persons appeared there; accused Ghous Bux told them that Ibrahim alias Gogo Faqir teased his sister, as such, he would not be spared and by saying so accused Ghous Bux and Nisar made fires from their pistols at Ibrahim which hit him and he fell down. After that, accused Jan Mohammad and two unidentified accused inflicted sharp side hatchet blows to Ibrahim and thereafter on the cries of the complainant party, all the accused persons ran away from the spot while Ibrahim died then and there.

At the very outset, learned D.P.G does not oppose the confirmation of this bail on the ground that the name of the

applicant/accused does not appear in the FIR and the applicant for the first time introduced in this case in further statement of the complainant recorded under section 162, Cr.P.C and in the statement of the prosecution witnesses recorded under section 161, Cr.P.C. While it is an admitted position that the applicant, co-accused and complainant party are the resident of same vicinity and know each other very well and are also related *inter se* and if the applicant/accused had participated in the commission of the alleged offence, he must have been nominated in the FIR by the complainant. I have examined the record produced before me and find weight in the contention of learned D.P.G. Besides as per report dated 21.09.2017, submitted by the learned Presiding Officer of the trial Court in compliance of the order dated 08.09.2017, after framing of charge on 28.01.2016 only one P.W namely, Khan Mohammad was examined on 06.03.2017 and thereafter complainant party failed to produce their witnesses for examination.

*Prima facie*, it appears that the only piece of evidence available with prosecution against the applicant/accused to connect him with the commission of alleged offence is the further statement of the complainant, although he was accompanied by at least two eyewitnesses but surprisingly the applicant/accused has not been named in the FIR, hence the guilt of the applicant requires further probe. On this score alone, the applicant has succeeded to make out a case of further enquiry as envisaged under sub-section (2) of Section 97, Cr.P.C. Accordingly, interim bail granted to the applicant/accused vide order dated 17.12.2015, is hereby confirmed on the same terms and conditions.

  
**Judge**