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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st. CrI. Bail Appln. No.S-402 of 2015.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection as Flag 'A'.
2. For Hearing.

07.11.2016.

Mr. AShique Ali Jatoi, advocate for the applicants along with applicants.

Mr. Sharjeel Sattar Bhatti, advocate for the complainant.

Mr. Khadim Hussain Khooharo, D.P.G.

Applicants Muhammad Saifal @ Saifullah and Ghulam Ali, who have already been granted interim pre arrest bail seek confirmation of bail in Crime No.03 of 2015 registered at Police Station Mahi Makool (District Kamber-Shahdadkot) for offence punishable under section 395, 398, 148, 149, PPC.

So far the allegation against the applicants are concerned, it is stated in the aforementioned FIR that the applicants/accused Muhammad Saifal @ Saifullah took Rs.26,000/- from the pocket of complainant and accused Ghulam Ali, robbed golden chain and two unidentified accused caused butt blows from their respective weapons on the head and left shoulder of the complainant and thereafter, the accused persons went away and that time the complainant was unconscious and thereafter he obtained letter from the concerned Police Station for medical treatment and since he was busy in treatment and after being discharged, he came at Police Station and reported the matter to the effect that the accused persons with deadly weapons robbed him and caused injuries.

Learned counsel for the applicants/accused submits that the applicant/accused are innocent and have falsely been implicated in this case; that there is inordinate delay of three days in lodging of FIR; that the applicants and the complainant belong to same Mugheri tribe and due to enmity the applicants/accused have falsely been implicated in this case; that as per version of the complainant, he appeared on 09.01.2015 before the SHO concerned and after obtaining letter for medical treatment he went to Hospital and after being discharged he lodged the FIR,



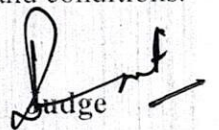
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hence their occurred three days delay in lodging of the same but the Medical Certificate which is available with prosecution shows that he had obtained letter for medical examination on 09.01.2015 but appeared before the Medical Officer at 11:15 a.m on 24.01.2015, hence version of the complainant in respect of the delay in lodging the FIR is incorrect and the case of the applicants falls within the purview of further enquiry.

On the other hand, learned counsel for the complainant has vehemently opposed this application for grant of bail to the applicants/accused on the ground that the applicants/accused have been nominated in the said FIR with specific role of committing robbery, therefore, they are not entitled for the confirmation of bail.

Learned A.P.G submits that the explanation furnished by the complainant for lodging the FIR with the delay of three days does not find support from the Medical Certificate, therefore, according to him, the case of the applicants/accused squarely falls within the purview of further enquiry.

There is no denial to the fact that there is delay of three days in lodging the FIR and explanation furnished by the complainant is that he firstly obtained letter from SHO concerned for treatment on 09.01.2015 and then after getting treatment and being discharged from the Hospital, he appeared before the police for lodging the FIR. However, the Medical Certificate issued by the Medical Officer of Civil Hospital Kamber, shows that although the complainant presented the letter bearing No.16 dated 09.01.2015 but he appeared before him on 24.01.2015, hence there is no substance in explanation furnished by the complainant that due to injury he could not promptly lodge the FIR. Therefore, I am in agreement with the learned A.P.G that the case of the applicants/accused squarely falls within the purview of further enquiry as envisaged under sub-section (2) of Section 497, Cr.P.C. I, therefore, confirm the interim pre arrest bail granted to the applicants/accused on 24.08.2015, on the same terms and conditions.


Judge