

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Ist. Crl. Bail Appln. No. S-22 of 2016.

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 orders on M.A.No.121/2016
3. For Hearing.

19.12.2016.

Mr. Saeed Ahmed Bijarani, advocate for the applicant.

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

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Through instant Crl. Bail Application, applicant/accused Manzoor Ahmed @ Shahban son of Muhammad Nawaz by caste Choliyani seeks post arrest bail in Crime No.21/2003 registered at Police Station Karampur, District Jacobabad under section 302, 324, 148, 149, 337-H(ii), PPC. His earlier bail application bearing Crl. Bail Appln. No.498 of 2015 filed in Sessions Case No.38 of 2013 was heard and dismissed by the learned Ist Additional Sessions Judge, Kandhkot vide order dated 30.12.2015

Brief facts of the prosecution case are that complainant, namely, Jawariyo lodged the aforementioned FIR alleging therein that on 26.03.2003, accused 1.Najamuddin, 2.Sahab, 3.Nazir Ahmed, 4. Allan, 5.Azad with K.Ks, 6.Noorullah, 7.Manzoor Ahmed 8.Niaz Ahmed, 9.Mubark, 10.Ali Gohar, 11.Dost Muhammad, 12.Mujeeb Rehman, 13.Farooque Ahmed, 14.Muhammad Panah, 15.Rehmatullah, 16.Rahim Bux, 17.Qutubddin, 18.Bashir and six unidentified culprits with guns and rifles entered at about 9:15 a.m into his house situated in deh Gulwali taluka Kandhkot being annoyed on their refusal to pay more amount in connection with the price of land when they (complainant party) demanded transfer of land after having purchased from accused party. He was available along with his sons Fatehddin, Nooruddin, brother Piyaro, wife Mst. Aathlee and relative Rehmatullah, out of them accused Najamuddin and applicant/accused fired hitting to Piyaro, accused Sahib and Rahim Bux fired hitting to Nooruddin, accused Mubark and Azad fired upon P.W Fatehddin, while accused Nazir Ahmed and Manzoor fired ^{upon} him; thereafter all the accused went away. Piyaro and Nooruddin died on the spot while he and P.W Fatehddin received injuries,

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he then leaving the P.Ws over the dead bodies came at Police Station and reported the matter.

Police after registration of the FIR arrested co-accused Niaz Ahmed and submitted report under section 170, Cr.P.C on 07.01.2006 wherein present applicant was shown as absconder, who was later on arrested by the police on 09.12.2015 and thereafter police submitted subsequent report under section 170, Cr.P.C in the trial Court.

Learned counsel for the applicant/accused has mainly contended that the applicant is innocent and has falsely been involved in this case by the complainant due to enmity over the landed property. He has further contended that instant FIR is counter blast to FIR Crime No.20/2003 reported under section 302, PPC earlier at same Police Station by the mother of the present applicant namely, Mst. Hazoor Khatoon, hence it is yet to be determined at trial that who was aggressor party and who was aggressed upon. He has also contended that no overt act regarding murder of deceased Piyaro and Nooruddin has been attributed to the present applicant but allegedly he caused injury to complainant at his left and right leg, which is non vital part of the body of the complainant. He has also contended that accused persons, namely, Noorullah and Najamuddin against whom there is direct allegation of causing death to brother of the complainant, namely, Piyaro have already been granted bail by the learned Additional Session Judge vide orders dated 02.11.2012 and 22.11.2012 respectively hence on the principle of consistency present applicant is also entitled for the concession of bail.

On the other hand learned A.P.G has opposed this bail application on the ground that the applicant is nominated by name in the FIR with specific role of causing injury to complainant at his left and right legs which injuries fall within the non prohibitory clause of section 497 (1), Cr.P.C.

Heard learned counsel for the parties and perused the material available on record.

Admittedly this is the case of two versions wherein one FIR was lodged by the applicants/accused party half an hour earlier to instant case in which two persons have also lost their lives and instant FIR is counter blast to the FIR lodged by the mother of the present applicant. Accused Najamuddin and Nooruddin against whom



there is direct allegation of making fires at the brother of complainant, namely, Piyaro who subsequently died, have already been granted bail by the learned trial Court. The case of the present applicant appears to be on better footing than the case of the said accused persons, therefore, on the rule of consistency present applicant is also entitled for the concession of bail, hence instant bail application is allowed and the applicant/accused is admitted to bail subject to furnishing solvent surety in the sum of Rs.300,000/- and P.R bond in the like amount to the satisfaction of the trial Court.

Judge

