

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No. D- 02 of 2018.

Date	Order with signature of Hon'ble Judge
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1.For orders on office objection as flag A.
2.For hearing of bail application.

27.02.2018.

Mr. Rafique Ahmed K. Abro, advocate for the applicant.

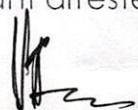
Mr. Khadim Hussain Khoonharo, Addl.P.G.

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MOHAMMAD IQBAL KALHORO-J.:- Through this application, applicant Khuda Bux Luhur seeks post arrest bail in Crime No.208 of 2016 of P.S Mehar U/S 153-A, 123, 124-A, 120-B, 324, 353 PPC, 6/7 ATA.

The allegations against the applicant are that he is affiliated with JSMM and on 26.8.2016 at 1800 hours he alongwith four other nominated co-accused belonging to the same party staged a protest at Shaheed Ashiq Hussain Park, Mehar against China Pakistan Economic Corridor (CPEC) and raised anti State slogans besides making speeches to spread hatred amongst various communities viz. Sindhi, Punjabi, Pathan. When this information was received by the complainant ASI Fida Hussain of P.S Mehar, he alongwith other staff reached the pointed place and identified all the five accused by their names. Seeing the police party, the applicant and other co-accused namely Zahid alias Gotam resorted to direct firing upon them but luckily none of the fire hit the police party. Then after throwing panaflex boards and raising anti State slogans all the accused fled away.

The investigation followed but none was arrested. The record reflects that the police even failed to submit the report in terms of section 173 Cr.P.C within stipulated time. The applicant submitted an application U/S 498 Cr.P.C for seeking pre arrest bail before the trial Court but meanwhile he was taken into custody and his pre arrest bail application was converted U/S 497 Cr.P.C which was, however, dismissed. The investigating officer in the meantime, in view of such development submitted the challan showing the applicant arrested.



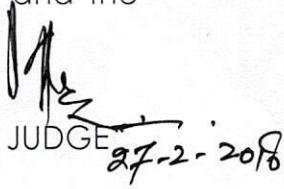
Learned counsel for the applicant has argued that the applicant is innocent and he has no affiliation with any political party; that he was not present at the spot as alleged by the prosecution; that only the allegation of ineffective firing is levelled against him; that from the spot no independent person was examined to support the allegations against the applicant.

On the other hand, learned Addl.P.G has opposed bail to the applicant on the ground that the applicant is nominated in the FIR with specific allegation of raising anti State slogans.

We have considered submissions and perused the material available on record. Only allegations of making ineffective firing on the police are levelled against the applicant, but prima facie these allegations are not established as no incriminating evidence to that effect has been collected by the prosecution. The allegations of raising anti State slogans and making hatred speeches requires further enquiry as no one from the spot was examined by the investigating officer to support such allegations. There is no documentary evidence either to establish the affiliation of the applicant with any anti State party.

Therefore, we are of the view that the applicant has been able to make out a case for grant of bail. Accordingly, this bail application is allowed. The applicant is granted bail in the sum of Rs.100,000/= and P.R bond in the said amount to be executed before the learned trial Court. The bail application is disposed of and the observations hereinabove are tentative in nature.


JUDGE


JUDGE

27-2-2018