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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st. CrI. Bail Appln. No.S-253 of 2014.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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For Hearing.

04.8..2014

Mr. Faiz Muhammad Larik, advocate for applicant.

Mr. Ahmed Raza A. Sundrani *AW. Sun* for complainant.

Mr. Imtiaz Ali Jalbani, A.P.G.

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This bail application is filed by the applicant Shafi Muhammad in respect of FIR bearing Crime No.81 of 2014 registered at Police Station A-Section Kandhkot under section 462-B, 427, PPC.

Brief facts of the case as alleged in the FIR are that PARCO company is joint Organization of Government of Pakistan and Abu Dhabi, which is one and only source of supply of petroleum in all over Pakistan. On 29.3.2014 at 3:00 a.m, the complainant party received information regarding dropping of the pressure from Parco Control Building; on receipt of such information, the same was conveyed over phone to Incharge of Patrolling Team Ghulam Murtaza son of Ghulam Rasool Bhayo, 2.Muhammad Laiq son of Sanwalo Lolai that there is information regarding dropping of pressure at area i.e. 48 plus 300 Kilometer of Parco Pipeline, and directed them to check the line. As such at 8:00 a.m Security Incharge Ghulam Murtaza told the complainant over phone and while they were checking the line and reached near village Jahan Khan Bangwar, where they saw that there was ditch over Parco pipeline and a clip was lying installed in the pipeline and the oil was lying sprinkled. On receiving such information, complainant accompanied the engineer from the Station and while conveying such information to A-Section Police Station Kandhkot came at place of incident, where complainant saw the above position. Police of A-Section P.S consist of H.C Abdul Qadir Bangwar, PC Illahi Bux and PC Ghulam Murtaza arrived there by official

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vehicle; they got removed clip from pipeline in presence of police and got prepared such mashirnama and then took foot prints of the accused persons and the sprinkled oil, which led them to a house after covering distance of about one kilometer towards north, as such police party and Parco Team entered in the house and six persons present in the house on seeing complainant party escaped away, out of them one person was identified by Line Walker Shoukat Ali Bangwar to be Shafi son of Bhoro Bangwar, who was also owner of the said house, where the complainant party saw that one tool which is used for drilling the pipeline, were secured and handed over to police and such mashirnama was got prepared. Now the complaint of the complainant is that the above accused with their common intention while installing clip in the Parco pipeline and by stealing the oil from pipeline have caused loss to the country worth of lacs of rupees. The unknown accused could be recognized if seen again.

It is the case of the applicant that he has been arrested at the distance of one kilometer from the place of incidence and when police party raided, five alleged accused persons out of six accused escaped and only the applicant was arrested. It is claimed that they traced the house of the alleged accused on the basis of the foot prints and sprinkled oil. It is also claimed that a tool which is commonly called as driller was also found from the custody of the applicant/accused which was allegedly used in drilling the pipeline. Such material tool though is of importance as alleged, however, one of the significant part which is missed by the Investigating Officer is the measurement / thickness of the bore and the hole that was allegedly made in the pipeline with that driller. Such lacuna in the investigation is a material negligence which cannot under the normal circumstances be escaped from the working of the intelligent officer. More importantly the FIR which has been lodged after the delay of seventeen hours is also of significant importance and it can be concluded that the arrest of the alleged accused is perhaps on account of some enmity between the petitioner and the officials as the same has been established by the applicant in terms of the annexure 'E', which is the petition filed by the applicant much before lodging of FIR, whereby the officials of Police Station B-Section Kandhkot were stated to have been causing harassment to the applicant.

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I have heard the learned counsel and perused the material available on record. No doubt the alleged tool i.e. a drill has been allegedly procured from the custody of the applicant, however, at this stage this could hardly be concluded against applicant. Moreover, the measurement i.e. width of the bore and the measurement of the hole made in the pipeline has not been done. Filing of petition prior to the lodging of the FIR against the officials also contribute towards the facts that there is some enmity between the applicant and the official respondents. It is difficult to believe at this stage that after seventeen hours of the incident the officials have traced the foot prints in a deserted area and they found the applicant at the distance of one kilometer from the scene of the incidence. All these questions require investigation and trial as such it has become case of further enquiry.

In view of the above facts and circumstances, the applicant is admitted to bail subject to furnishing solvent surety in the sum of Rs.75,000/- (Rupees. Seventy five thousand only) and P.R bond in the like amount to the satisfaction of the trial Court.


Judge
4/8/14

M.Y.Panhywar/**