

ORDER SHEET.
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
 Cr.B.A.No.S-560 of 2016.

Date of hearing	Order with signature of Judge
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1. For orders on office objection at flag A.
2. For orders on MA No.4358 of 2016.
3. For orders on MA No.4359 of 2016.
4. For hearing.

24.11.2016.

Mr. Asif Hussain M. Nawaz Chandio, Advocate a/w applicants.

ORDER.

Applicants are accused in the F.I.R bearing Crime No.27/2015, registered at Police Station Bahoo Khoso District Jacobabad under sections 302,324,14,149 PPC; and by this application they are seeking pre-arrest bail. It may be mentioned that previous to this application, the applicants had filed a bail application bearing No.S-125 of 2016 in which they were granted ad interim pre-arrest bail vide order dated:09.03.2016 and thereafter on subsequent dates the applicants were directed to proceed with the bail application but on one pretext or the other they kept seeking time and finally their bail application was dismissed in non-prosecution vide order dated: 21.11.2016, which is reproduced hereunder:-

“On 28.10.2016, this bail application was adjourned due to illness of learned counsel for the applicants with note of caution that on the next date of hearing the applicants shall proceed with the matter but again on 04.11.2016 when this matter was taken up, the counsel for applicants made a request for adjournment, which was granted as a last and final chance despite opposition to it by the counsel for complainant. Today, counsel for applicants is present, but he has again made a request for adjournment that has been declined and he has been directed to proceed, but he has refused to proceed with the matter. In the circumstances, this bail application is dismissed in non prosecution”.

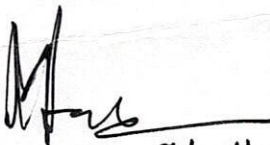
After the above order the applicants have preferred the instant bail application.

I have heard learned counsel for the applicants and perused the F.I.R as well as other documents submitted in this application. Learned counsel has argued that applicants are innocent and have been falsely implicated in this case; that the applicants were not available at the time of offence and were on their duty, therefore, in the investigation were declared

M. Nawaz Chandio

innocent and placed in Column No.2 but learned Magistrate did not agree with the opinion of the Investigation Officer and took cognizance against them. A perusal of F.I.R shows that applicants have been attributed specific role of causing murder of two persons and injuring one. Applicant Liaquat Ali is alleged to have fired on deceased Shazia, whereas applicant Himath Ali is said to have fired on Darya Khan. Besides the applicants, co-accused Noor Muhammad is alleged to have fired at Khalil Ahmed, and as a result of their firing, Khalil Ahmed and Shazia died at the spot whereas; Darya Khan was critically injured. Prima facie applicants appear to be connected with the offence and in view of specific role attributed to them, it cannot be inferred summarily that they have been implicated in this case due to some malafide or on the basis of some ulterior motive. As to the contention of learned counsel that the applicants were placed in Column No.2, it may be mentioned that opinion of Investigation Officer was not accepted by the learned Magistrate and merit of such opinion could only be determined at the stage of trial. For the entitlement to extra ordinary relief of pre-arrest bail, the accused have to show malafide and ulterior motive on the part of complainant to falsely implicate them. No such material is available on record. Therefore, I am of the opinion that applicants have not been able to make out a case for such extra ordinary relief as granting them pre-arrest bail. Consequently, this bail application is dismissed in limine.

The above observations are tentative in nature and shall not prejudice the case of any party in the trial.


JUDGE 24-11-2016

Ashfaq