

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail Appln. No.S-460 of 2017.
&
Crl. Bail Appln. No.S-466 of 2017.

| | |
|--------------------|---------------------------------------|
| DATE OF HEARING | ORDER WITH SIGNATURE OF HON'BLE JUDGE |
|--------------------|---------------------------------------|

1. For orders on office objection 'A'.
2. For Hearing of Bail Application.

18.12.2017.

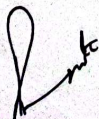
Mr. Ashique Ali Jatoi, advocate for applicants along with applicants.

Mr. Sardar Ali Shah, D.P.G.

ZAFAR AHMED REJPUT, J. By this common order I intend to dispose of both the above listed pre arrest bail applications, as the same have arisen out of one and same crime and heard together.

Through Crl. Bail Appln. No.S-460 of 2017, applicant/accused Babar Brohi son of Sikandar Ali and through Crl. Bail Appln. No.S-466 of 2017, applicant/accused Sher Zaman son of Master Sher Muhammad Brohi seek pre arrest bail in Crime No.21/2017 registered at Police Station Behram under section 316, 34, PPC. Their earlier bail application bearing No.686 of 2017 was heard and dismissed by the learned Additional Sessions Judge-II, Kamber vide order dated 19.09.2017. The applicants were admitted to ad-interim bail by this Court, vide order dated 22.09.2017 and 25.09.2017 respectively, now they seek confirmation of their bail.

Briefly stated the facts of the prosecution case are that on 26.05.2017, the brother of complainant, namely, Manzoor Ali went for selling Ice cream (Polka) on motorcycle and on the same day the complainant along with his cousin Zahid and relative Sajid Ali went to Shahddadkot on motorcycle and while returning when they reached Shahddadkot Bridge, his brother Manzoor Ali also met with them on another motorcycle from where they reached Jatan Jo Laro at about 08:00 p.m, where they saw that the motorcycle of Manzoor Ali hit to



three persons who were sitting on the road side and Manzoor Ali fell down. The complainant identified out of them, two persons as Babar Brohi and Sher Zaman, present applicants, while third one was unidentified. It is further alleged that all three accused persons became angry and they took pieces of stones and threw the same on the said brother of the complainant who in result thereof received serious injuries on the back side and head and other part of the body. He became unconscious and succumbed to the injuries when he was taken to hospital.

Learned counsel for the applicants contends that the applicants are innocent and have committed no offence; that in fact the death of the deceased brother of the complainant was result of rash and negligent driving and he died due to accident but, subsequently; the complainant after 16 hours of the incident concocted false story of throwing stones by the applicants/accused over the said deceased causing his death; that even the ocular version recorded by the complainant in F.I.R is not supported with the medical evidence and it is a fit case of further enquiry; that applicant Babar is hardly aged of 16 years and he is studying in Shah Abdul Latif College Kamber while applicant Sher Zaman is aged of 18 years and he is studying in B.Sc Part-I, in the same college and in case they are not granted pre arrest bail and remanded to custody their whole career shall ruin; that after obtaining ad-interim bail, the applicants have fully cooperated with the Investigating Officer and since the challan has been submitted, their custody is no more required by the police.

Learned D.P.G has candidly concedes the confirmation of pre arrest bail on the ground that, *prima facie*, there appears no injury on the body of deceased Manzoor Ali so far postmortem report is concerned suggesting the cause of death due to throwing any stone over

him.

63
Heard the learned counsel for the applicants as well as learned D.P.G for the State and perused the material available on record.

It appears that the alleged incident took place on 26.05.2017 at 08:00 p.m, while the FIR was lodged by the complainant who is brother of deceased Manzoor Ali on 27.05.2017 at 12:00 noon after delaying of 16 hours for which no plausible explanation has been furnished. It further appears from the perusal of postmortem report that the said deceased received two injuries i.e. (1) one swelling over mid of the occipital region (profused bleeding coming from ears) and (2) one bruise over inter-scapular region. It further appears that during course of the investigation the I.O obtained a clarification from Medical Officer, Taluka Hospital Miro Khan regarding cause of death who vide letter dated. 03.07.2017 showed the possibility of the death of said deceased due to fallen down from motorcycle, as such the postmortem report of the deceased and subsequent clarification of Medical Officer contradict the ocular version of the prosecution case which makes the case of the applicants as one of further enquiry as envisaged under sub-section (2) of Section 497, Cr.P.C. Hence the interim bail granted to the applicants vide order dated 22.9.2017 & 25.9.2017, respectively are hereby confirmed on the same terms and conditions.

Both Crl. Bail Applications stand disposed of.


Judge