

6

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st. Crl. Bail Appln. No.S-329 of 2017.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For Hearing of Bail Application.

27.10.2017

Mr. Zulifqar Ali Jamali, advocate for the applicants.

Mr. Rafique Ahmed K. Abro, advocate for complainant.

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

Through instant Crl. Bail Application, applicants/accused (i) Muzaffar Ali @ Moojan Hussain, (ii) Mst. Zeenat, (iii) Naseeba Khatoon and (iv) Savera seek pre arrest bail in Crime No.03/2017, registered at Police Station Women Larkana, for offences punishable under section 337-A(i), 337-F(i), 452, 506/2, 509, 34, PPC. Their earlier application for pre arrest bail bearing No.823 of 2017 was heard and dismissed by the learned VI-Additional Sessions Judge, Larkana. The applicants were admitted to ad-interim bail by this Court vide order dated 28.07.2017, now they seek confirmation of their interim bail.

Briefly stated the facts of the case are that on 15.07.2017, complainant Mst.Naila, who is wife of applicant No.1, lodged the aforementioned FIR, stating therein that about one and half year back she was married to applicant No.1 and from the said wedlock she has one son, aged about eight months. After marriage, she started residing with her husband, her mother in-law, namely, Naseeba (applicant No.3), sister-in-law, namely, Zeenat (applicant No.2), brother-in-law Saleh and his daughter Savera, (applicant No.4). It has further been stated that on 14.07.2017, the applicants/accused after maltreating and snatching the custody of her minor son, ousted the complainant from the house, and/she came to the house of her uncle Abdul Rauf, who resides in police line. On 15.07.2017, the applicants/accused came at the house

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69 18

of complainant's uncle and after abusing her extended murderous threats so much so applicant/accused Muzaffar Ali, stepped forward to strangle her but she was rescued by her uncle and aunty.

Learned counsel for the applicants submits that the applicants are innocent and have falsely been implicated by the complainant with *mala fide* intention and ulterior motive to harass them who are husband and in-laws of the complainant; that applicants Muzaffar and Mst Zeenat are blind by eyes and it does not appeal to a prudent mind that the blind persons can act as alleged in the FIR by the complainant; that there are general allegations against the applicants and no specific role has been assigned to any of the applicants who were shown at the occurrence with empty handed; that all the Sections are bailable except 452 and 506/2, PPC and application thereof requires recording of evidence by the trial Court. Even the alleged offence does not fall within the prohibitory clause of section 497, Cr.P.C; that the Investigating Office after conducting investigation recommended the case in cancel "C" class but the concerned Judicial Magistrate while declining the summary took the cognizance against the applicants, hence it is a fit case for further enquiry.


On the other hand learned counsel for the complainant has opposed this application on the ground that the applicants have not only abused the complainant but also the applicant No.1 attempted to strangle her.

Learned A.P.G, however, records his no objection for the confirmation of this bail on the ground that there appears matrimonial disputes between the parties and no serious injury has been caused to the complainant and even allegation of strangulation is only to the extent of applicant No.1, stepping forward to complainant and the complainant has not stated in the FIR if he had in fact attempted for strangle her. Hence it is a fit case for further enquiry.

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71

It appears that the applicant No.1, is the husband of the complainant while applicants No.2 to 4 are her in-laws. The applicants No.1 & 2 are blind by eyes. Insofar as injuries caused to the complainant are concerned, in this regard the medical report only suggests some superficial injuries on the body of the complainant and it is yet to be determined if there is any application of Section 452 and 506/2 of PPC. The rest of the offences under which the FIR has been registered are bailable. The basic rule in such like cases is bail not jail; hence, it is a fit case for further enquiry, therefore, interim bail granted to the applicants vide order dated 28.07.2017 is hereby confirmed on the same terms and conditions.


Judge

For Direction

- x _____ x _____ x _____ x
- ① For orders on M.A No. 4946/18 4/A
- ② For orders on M.A No. 4947/18 E/A
- ③ For orders on M.A No. 4948/18 SGI-A
G.P.C.
- x _____ x _____ x _____ x
- Accountant Report as flag: A.