

(5)

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No.S-284 of 2018

Date _____ Order with Signature of Judge _____

10.08.2018

Mr. Ashfaq H. Abro, Advocate for the applicants.
Mr. Safdar Ali Ghouri, Advocate for the complainant.
Mr. Khadim Hussain Khoonharo, APG for the State.

ORDER

ZAFAR AHMED RAIPUT, J: Through instant criminal bail application, applicants/accused (1) Baloo Khan s/o. Sharbat Khan and (2) Bashir Ahmed s/o. Khan Muhammad, both by caste Lashari, have sought pre-arrest bail in Crime No. 13/2018, recorded at P.S Tangwani by complainant Muhammad Alam Khoso under Sections 395 & 397, P.P.C. Earlier their bail application bearing No. 302 of 2018 was heard and dismissed by the learned 1st Additional Sessions Judge, Kandhkot, vide order dated 31.05.2018. Applicants were admitted to ad-interim pre-arrest bail by this Court, vide order dated 11.06.2018, now they seek confirmation of their interim bail.

2. As per F.I.R., the allegation against the applicants is that on 10.05.2018 at 0630 hrs., they entered into the house of complainant along with co-accused persons, namely, Muhammad, Abdul Hammed, Bangul, Qurban Ali @ Guloo, all by casts Lashari and three unidentified persons, duly arms with T.T. pistols; and robbed Rs. 1,07,000/-, and caused butt blows to P.W. Ghulam Rasool.

3. Learned counsel for the applicants contends that the applicants are innocent and have falsely been implicated in this case by the complainant due to old enmity between Khosa and Lashari tribes; that the applicant party filed more than four constitutional Petitions before this Court in which the complainant and others were cited as respondents and prior to this F.I.R..

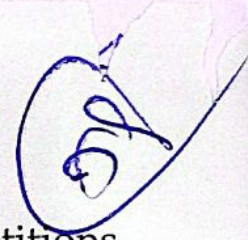
two other identical F.I.Rs were registered against the applicant party by the fellow of Khosa tribe; hence the mala fide on the part of complainant party cannot be ruled out; that prior to this F.I.R., nine persons of Lashari tribes were taken away by the police on the instigation of complainant party for that habeas corpus petitions bearing Nos. 5-341 and 399 of 2018 were filed before this Court in which notices were issued for 13.06.2018 and it was hereafter the F.I.Rs were registered against all the detainee on the instigation of complainant parties, hence, it is a fit case of further enquiry and the applicants are entitled to the concession of bail.

4. On the other hand, the learned counsel appearing for the complainant while opposing the confirmation of interim bail has maintained that the applicants have been nominated in the crime by name and they have committed an offence that carries punishment for life.

5. Learned A.P.G; however, has recorded his no objection for the confirmation of ad-interim bail on the ground that both, the applicants and the complainant, belong to same village and there is a long history of enmity between their tribes and as many as five F.I.Rs have been registered against the applicant party from 23.04.2018 to 07.06.2018; hence, it is a fit case of further enquiry.

6. Heard the learned counsel for the applicants, complainant and A.P.G. for the State, as well as, perused the material available on record.

7. It appears that the applicants and the complainant belong ⁻⁶⁻⁷ Lashari and Khosa tribes, respectively, and they are resident of same village i.e. Rasoolabad, Taluka Tangwani, District Kashmore @ Kandhkot. Besides the present F.I.R., four other cases are registered against the applicant party but all the five case of identical nature have been registered within a span of 45 days from 23.04.2018 to 07.06.2018, earlier to that, there is admittedly no



previous criminal record of the applicants. Filing of habeas corpus petitions on behalf of the applicant party has also not been denied by the counsel for the complainant. Under the circumstances, the guilt of applicants prima facie requires further enquiry as envisaged under sub-section (2) of Section 497 Cr.P.C. Hence, the interim pre-arrest bail granted to the applicants, vide order dated 11.06.2018, is confirmed on the same terms and conditions. However, in case the applicants misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving them notice, in accordance with law.



JUDGE