

IN THE HIGH COURT OF SINDH AT KARACHI.

Crl. Bail Application No.2159 of 2014

- 1. For orders on office objection as Flag-A**
- 2. For hearing of Bail Application**

04.05.2016

Mr. Zubair Ali Khashkhali, Advocate for applicant
Mr. Saleem Akhtar Burior, Addl: P.G.

ORDER

Muhammad Iqbal Kalhoro,J. Applicant is accused in crime No. 138 of 2013, registered on 07.06.2013 at Police Station Malir City, U/s 365, 302, 324 & 34 P.P.C.

2. Facts of the FIR show that on 05.06.2013 at about 0045 hours deceased Muhammad Toseef, Muhammad Mehtab, Faizan and Farhan, who were employees in Denim Factory, were going on a company bus to their office, when the bus reached National Highway Road Malir near Hafiz Sweets Malir City, Karachi, they were waylaid and after checking of their identity cards were abducted by the unknown accused, and later on, on the same day their dead bodies were recovered from Khokhrapar Malir. In the FIR complainant nominated co-accused Sohail Dada and Akbar Maleri as the abductors who had committed the offence on the basis of some enmity. The FIR was registered on 07.06.2013 and on 12.06.2013 further statement of complainant was recorded, wherein he implicated the applicant and stated that a day before the incident, the applicant had quarreled with the deceased over the seat of the bus and had threatened them.

3. Learned defence counsel has argued that applicant is innocent and has falsely been implicated in this case; that there is no direct evidence against the applicant, and he was implicated on the basis of supplementary statement of the complainant, which was recorded after seven days of the incident. He has further stated that co-accused Akber Muleri who is nominated in the FIR has been granted bail by this court and the case of the applicant is on better footing. He next states that there is delay of two days in registration of FIR, which has not been explained. Learned counsel in support of his arguments has relied upon the case law reported in 2013 P Cr. L J 1448 [Mst. Mariyam vs. The State).

4. On the other hand, learned Addl: P.G. has opposed the grant of bail to the applicant and has pointed out that PWs in their statements have stated that applicant was seen in the street near place of incident where the deceased were taken to after their abduction, and from where the deceased were removed to unknown place and done to death. Learned Addl: P.G. has also stated that all the PWs are employees of the Denim Factory, who were present in the bus and had seen the incident as well as dispute between the applicant and the deceased.

5. I have heard both the parties and perused the material available on record. No doubt, applicant is not nominated in the FIR and was subsequently implicated in this case on the basis of supplementary statement, but the statements of PWs were recorded on the very day of registration of FIR, the applicant has been named therein, and is stated to have quarreled with the deceased a day before the incident and on the day of incident he was available in the street near the place of incident where the deceased were taken and removed to unknown place. PWs have further stated that applicant was present along-with five duly armed persons in the street and deceased were removed by them. I am of the view that this piece of evidence, which prima facie connects the applicant with the commission of offence, cannot be ignored, as far as bail plea of the applicant is concerned. In view of the above, the bail application of the applicant is dismissed. However, the trial Court is directed to examine the PWs who in their statements have implicated the applicant within a period of three months, whereafter, the applicant would be at liberty to repeat his bail application, which shall, however, be decided on its merits.

JUDGE

Rafiq/P.A.