

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
**Cr. Bail Appl Nos.35, 36, 37 of 2018**  
**Cr. Bail Appl Nos.132, 133 134 of 2018**

Date	Order with signature of Judge
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*Present:-*

*MR. Justice Muhammad Iqbal Kalhoro.*

*Mr. Justice Muhammad Karim Khan Agha.*

**For hearing of Bail Application.**

**11.06.2018.**

Mr. Mukesh Kumar G. Karara, Advocate for the applicants in Cr. B.A.  
 Nos.35, 36, 37 of 2018

Mr. Muhammad Farooq, advocate for the applicants in Cr. B.A.  
 Nos. 132, 133, 134 of 2018

Mr. Ali Haider Salim, DPG

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** By this single order, we dispose of above six bail applications, whereby the applicants are seeking post arrest bail in case bearing crime No.848/2015, U/s 353, 324, 427, 34, read with Section 7 ATA, 1997; in case bearing crime No.849/2015, U/s 23-I/A Sindh Arms Act in case bearing crime No.850/2015, U/s 23-I/A Sindh Arms Act; in case bearing crime No.851/2015, U/s 4/5 Explosive Act, 7 ATA, 1997; all the FIRs registered at Korangi Industrial Area (KIA), Karachi.

2. It is alleged in the FIR that on 03.12.2015 at 0300 hours PI/SIO Mohsin Hussain along with his staff in respect of investigation in crime No.179/2015 came with arrested accused namely Usman Mouzzam on Malir river near Saima Luxury Korangi, Karachi, where the aid accused pointed to a 'Hut' and revealed presence of his accomplices there. On such information police party started proceeding towards the said 'Hut' and when they reached close to the 'Hut', suddenly the accused from inside started firing on the police. Police in defence retaliated and after some time were able to arrest present applicants and recovered from them a pistol each besides ball bearing weighing around 25 kilograms, explosive material of 5 kilograms, Prima cord 3 meter, seven detonators, one Circuit, one IED Box. The applicants could not produce any justification or license of recovered arms ammunition; hence they were arrested and booked in the above stated FIRs.

3. Mr. Mukesh Kumar G. Karara and Mr. Muhammad Farooq, learned defence counsel have argued that applicants are innocent and have been falsely implicated in this case at the instance of Rangers, who had arrested the applicants prior to the FIR. Further explaining the said point Mr. Muhammad

Farooq, for applicant Muhammad Siddiqui submitted that accused Usman Mouzzam had filed a C.P.No.D-3658/2015 against alleged detention of his son Saad Siddique by the Rangers officials and during pendency of which he and another Muhammad Siddiqui were taken away by the Rangers on 19/20<sup>th</sup> July, 2015 against which his wife namely Mst. Subohi Usman Moazzam had filed a C.P.No.D-4352/2015. In response of said petition, the Rangers had filed comments admitting that Usman Mouzzam was arrested u/s 11-EEEE ATA Act and detained in Central Prison, Karachi. According to the learned Counsel the detention period of Usman Mouzzam started from **28.08.2015** and ended on **26.11.2015** but on the same day i.e. **26.11.2015** he was shown arrested in FIR No.179/2015, u/s 212/216/21K11V-7ATA, and during interrogation of, which it is alleged, that on his pointation the applicants / accused were arrested. Learned defence counsel has submitted that these facts show that applicants were falsely implicated in these cases and the alleged arms and ammunition etc. were foisted upon them.

4. Mr. Mukesh Kumara G. Karara, who is appearing on behalf of the applicant Muhammad Ubaid-ur-Rehman argued that applicant was arrested from his house by the Rangers and thereafter his mother had sent an application to D.G. Rangers Sindh through TCS on **08.10.2015** requesting for a meeting with her son/applicant, which is prior to registration of the FIRs and would show that the applicant has been falsely implicated in this case. He further submitted that against alleged detention of the applicant Muhammad Ubaid-ur-Rehman, her mother had also filed a C.P.No.D-6456/2015. He has further submitted that the Investigating Officer (I.O.) has not properly conducted the investigation and has only believed the part of the story forwarded by the prosecution without attending to the defence version of the accused, and this has caused a serious prejudice to the applicants and on this ground the applicants would be entitled to grant of bail. He has relied upon the case laws reported in *S C M R 560, P Cr. LJ 742, S C M R 1085, P L D (SC) 241, M L D 1535, P Cr. LJ 683 and P Cr. L J 54.*

5. On the other, learned DPG has opposed grant of bail to the applicants.

6. We have considered submissions of the parties and perused the material available on record including the case laws cited at the bar. Although learned defence counsel have filed copies of constitution petitions in these bail applications but except those petitions which were not disposed of in the terms establishing illegal detention of the applicants nothing is on record showing that applicants were arrested by the police or Rangers before registration of the FIRs to appreciate their contention in this connection. Insofar as the confinement of accused Usman Mouzzam is concerned, Rangers in response to the C.P.No.D-4352/2015 filed by his wife admitted his arrest U/s 11-EEEE

and his detention and only after expiry of his detention period he was implicated in the FIR No.179/2015. We for tentatively find nothing illegal in the whole procedure or it being beneficial to the applicants *qua* their bail plea, which is to be decided by only tentative assessment of the material on record. The arrest of the present applicant is shown only after the said Usman Mouzzam disclosed about them and after such disclosure when police tried to arrest the applicants they started firing in which although no one was injured but the record shows that one of the bullets had hit the police mobile regarding which the FSL in positive is also available on record. Besides, it is matter of record that huge cache of arms and ammunition etc. is alleged to have been recovered from possession of the applicants, which in the ordinary course cannot be believed to have been foisted by the police upon them. The applicants have not alleged any enmity against the complainant or the police officials to raise any suspicion about their implication in these cases. During the arguments, when we asked learned DPG as to why the trial has not been concluded for the last three and half years, he replied that the applicants are mainly to blame for that because their counsel either are not present in the court on the dates of hearings or seek adjournments despite presence of the witnesses. This fact has not been rebutted by the learned defence counsel. We in the aforesaid facts and circumstances and keeping in view the prima facie evidence against the applicants and keeping ourselves from indulging into a deep appreciation of the facts such as filing of the constitution petitions by the relatives of the applicants dismiss these bail applications. But at the same time as we have been informed that out of seven (07) witnesses two witnesses have already been examined, we direct the trial court to expedite the trial and conclude it within a period of two (02) months hereof and during which no adjournment shall be granted to the applicants or the prosecution on any ground.

7. The bail applications are disposed of in the above terms; the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

**J U D G E**

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Rafiq/P.A.