

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
 Cr. Bail Appl No. **277** of 2018
 Cr. Bail Appl No. **278** 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.

03.04.2018.

Mr. Idress Ahmed, Advocate for applicant
 Mr. Ali Haider Salim, DPG

ORDER

MUHAMMAD IQBAL KALHORO J: By this single order, we dispose of above two bail applications, whereby the applicant is seeking post arrest bail in a case bearing crime No.10 of 2017 U/s 353, 324, 392, 34 PPC read with Section 7 of Anti-Terrorism Court ('ATA') Act, 1997, registered at Police Station, North Nazimabad, Karachi; and a case bearing crime No.19 of 2017, U/s 353, 324 PPC read with Section 7 ATA, registered at Police Station Shahrah-e-Noor Jehan, Karachi.

2. It is alleged that applicant along with his other accomplices three of whom are nominated in the FIR while riding on a motorcycle and a car came on main Korangi Industrial Area Road near Attock Petrol Pump, Karachi and committed murder of four (04) persons on **29.11.2012** at about 1245 hours. The FIR of which was lodged on the same date at about 2010 hours.

3. Learned defence counsel has argued that during the investigation no evidence was found against the applicant and other accused as such the Investigating Officer ('I.O.') after recording of the details disposed of the case under 'A' class. However, learned trial Court did not agree to the opinion of the I.O. and took cognizance of the case. He has further argued that case against the applicant in view of such report of disposal of the case requires further enquiry; that the applicant has been implicated in this case out of malafide and due to political rivalry between two (02) groups of MQM; that the investigation report shows that all the empties which were recovered from the place of incident were fired from one pistol; that the evidence of witnesses have been

recorded and they have contradicted to each other on material facts of the case. Learned counsel has further argued that even on bail stage it is well established principal of law that benefit of doubt if there is any is to be extended to the accused. In support of his contention, he has relied upon the case law reported in *1995 S C M R 127, P L D 1995 SC 34 and P L D 1968 SC 349*.

4. On the other hand, learned Deputy Prosecutor General has opposed grant of bail to the applicant.

5. We have considered submissions of the parties and perused the material available on record. Admittedly, the applicant was not arrested from the spot after alleged robbery and the encounter as is mentioned in FIR bearing Crime No.10/2017 lodged at Police Station North Nazimabad. His arrest has been shown by the police of Police Station Shahrah-e-Noor Jehan after yet another encounter on the same date i.e. **27.01.2018**. In both the police encounters none from the police party was injured and nothing is on the record to show that even the police mobiles were hit by any bullet. After arrest of the applicant, Investigating Officer ('I.O.') did not arrange for identification parade of the applicant to get him identified by the complainant namely Muhammad Wasi and witness namely Adeeb Rizvi (FIR No.10/2017), who were allegedly robbed by him. Therefore, his involvement in the said case requires further enquiry. Insofar as the FIR bearing Crime No.19/2017 is concerned, we have noted that although the applicant is shown to have been injured in the said incident but no one from police party got any scratch. In the circumstances, we are of the view that the involvement of the applicant in the said FIR also requires further enquiry. Accordingly, these bail applications are allowed and the applicant is granted bail in both the said cases subject to his furnishing a solvent surety in the sum of Rs.1,00,000/ (Rupees one hundred thousand only) in each case with P.R. bonds in the like amount to be executed to the satisfaction of the trial Court.

6. 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.