

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Bail Appl Nos.478 of 2018
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Date	Order with signature of Judge
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Present:-

MR. Justice Muhammad Iqbal Kalhoro J.

Mr. Justice Muhammad Karim Khan Agha J.

For hearing of Bail Application.

15.05.2018.

Mr. Arshad Mehmood Advocate for the applicant.

Mr. Ali Haider Saleem, DPG

ORDER

MUHAMMAD IQBAL KALHORO J: By this single order, we dispose of above captioned bail applications, whereby the applicant is seeking post arrest bail in case bearing crime No.399/2017, U/s 186, 353, 324, 427, 345 PPC r/w section 7 ATA and crime No.400/2017, U/s 23-(i)A Sindh Arms Act registered at P.S. Landhi Karachi.

2. It is alleged that a police party of P.S. Landhi headed by SIP Kashif Barkat was on patrol on 24.12.2017, during which they received information about two accused committing robbery from the people near main gate of Inhami ground Landhi No.1, Karachi. On such information the police party reached the pointed place and saw the accused, who seeing the police started firing on the police party and in retaliation police also fired. Subsequently after an encounter, police arrested two accused including the applicant in injured condition, both of them having received bullet injuries on their legs. From them, it is alleged that a 30 bore unlicensed pistol, was recovered. In view of such recovery and the encounter with the police, both the accused were booked in two different cases.

3. Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in this case; that he had gone missing before registration of FIR and such application was moved by the sister of the applicant to SHO P.S. Sachal on 12.12.2017, thereafter she had registered an FIR No.672/2017 u/s 365 PPC against unknown accused regarding abduction of the applicant and then she had also filed C.P.No.D-885/2017 before this court on 23.12.2017 against the law enforcement agencies on the allegations that they had taken away her brother(applicant) and only thereafter the present FIR on 24.12.2017 showing the applicant arrested in an encounter was registered; that in the alleged encounter no member of the police party was injured and it is the case of ineffective firing, therefore, applicant is entitled to the grant of bail.

4. On the other hand, learned DPG has opposed the grant of bail to the applicant/accused.

5. We have considered submissions of the parties and perused the material available on record. In our view this case is of ineffective firing where allegedly only two accused arrested were injured after having received bullet injuries on their legs. Before registration of instant FIR, registration of FIR against unknown accused disclosing missing/abduction of the applicant and filing of petition in the background of the ineffective firing attributed to the applicant requires further inquiry into the guilt of the accused. In these circumstances, we are of the view that the applicant is able to make out a case for grant of bail. Resultantly, we allow both the applications and grant bail to the applicant subject to his furnishing solvent surety in the sum of Rs.100,000/- in each case to the satisfaction of the trial court.

7. The bail applications are disposed of in the above terms.

Needless to mention here that the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

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