

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.

Date	Order with signature of Judge
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Cr. Bail Appl No.137 of 2020

Syed Muhammad AbbasApplicant

Versus

The State.....Respondent

Cr. Bail Appl No.780 of 2020

Syed Amir Hussain Rizvi @ babar @ Irfan
& othersApplicants

Versus

The State.....Respondent

For hearing of Bail Application.

16.06.2020.

Ms. Azra Iqbal, Advocate for Applicant in Cr. B.A. No.137/2020
Moulvi Iqbal Haider, Advocate for applicants in Cr. B.A.
No.780/2020
Mr. Muhammad Iqbal Awan, DPG

ORDER

By means of these applications, the applicants are seeking post arrest bail in the case bearing Crime No.455/2016, U/s 302, 34 PPC r/w section 7 ATA registered at Police Station Gulshan Iqbal, Karachi.

2. Complainant is a teacher in Iqra Babul Islamic School, Block-6, Gulshan-e-Iqbal, Karachi and has reported murder of Principle Mufti Ghulam Akbar and Mufti Kamran Hussain in the school premises in FIR registered on 25.08.2016 against unknown accused whom he and watchman PW Muhammad Riaz had seen. In the investigation, applicants were arrested on 05.09.2016 for possessing unlicensed weapons and were accordingly booked. During interrogation, they admitted commission of present crime and offence and were accordingly put to identification parade held on 16.09.2016 in which complainant and watchman PW Muhammad Riaz have picked them up to be the culprits. Besides, the pistols recovered from applicants Syed Mohsin and Faizyab Ali and the empties were sent for forensic examination to determine their use in the present case, the report of which has come in positive. On the basis of such evidence, the applicants have been put to trial before the learned Anti-Terrorism Court No.11, Karachi, where their bail applications have been dismissed on merits.

3. Learned defence counsel have argued that applicants are innocent and have been falsely implicated in this case; that 11 witnesses have been examined, who have contradicted each other; that there is no evidence against the applicants; that in the identification parade no role has been assigned to them and that the identification parade was not held as per rules laid down in this regard by the Apex court; that co-accused Syed Abbas Hussain has been granted bail by this court.

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

5. We have considered arguments of the parties and perused the material available on record. Co-accused Syed Abbas Hussain was granted bail mainly on the ground that there was no evidence against him and he was implicated in the case on the statement of co-accused Syed Muhammad Abbas. Whereas, against the applicants, *prima facie* material in the shape of their identification through identification parade by the eye witnesses has come on the record. Besides, the pistols recovered from applicants Syed Mohsin and Faizyab Ali have matched with the crime empties of the case, which furnishes yet another piece of evidence in favour of the prosecution. Further, the trial is in progress and 11 witnesses have already been examined. Learned defence counsel has attempted to persuade us to appreciate the suggestions recorded in cross examination of the witnesses, but suffice it to say that in deciding bail application, only tentative assessment of the record is to be undertaken and deeper appreciation is not permissible. Therefore, we are of the view that applicants are not entitled to concession of bail at this point of time. However, we have been informed that complainant and PW Muhammad Riaz, who identified the accused in identification parade have not been examined yet. We, therefore, while dismissing the bail applications, direct the trial court to examine them without fail within a period of 02 months and apply coercive methods for procuring their attendance in accordance with law, if it is required. In any case, after such period, the applicants would be at liberty to move a fresh bail application before the trial Court, which if filed, shall be decided on its own merits.

6. Bail applications stands disposed of in the above terms. The observations made hereinabove are tentative in nature and would not prejudice case of either party at trial.

Judge

Judge

