

**THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD**

Criminal Bail Application No.D-53 of 2022.  
Criminal Bail Application No.D-56 of 2022.

**Present**

**Mr. Justice Muhammad Iqbal Kalhoro**

**Mr. Justice Muhammad Saleem Jessar.**

Date of hearing & decision: 25.10.2022.

Mr. Dilber Khan Laghari and Mian Taj Muhammad Keerio  
advocates for applicants.

Mr. Shahzad Saleem Nahiyoona Addl. Prosecutor General.  
Complainant is present in person.

**ORDER**

MUHAMMAD IQBAL KALHORO, J:- There is bad blood between the parties who belong to the same caste: Rind. On 20.11.2008 applicants alongwith co-accused duly armed with deadly weapons accosted complainant party sitting inside Café Islam Hotel, Shahdadpur. Out of nine accused duly armed with deadly weapons, name in FIR, co-accused Manak Rind and Kando Rind, straightly fired on Shoukat Ali and Sher Muhammad alias Sheroo killing them on the spot. Applicants and remaining co-accused are stated to have made only aerial firing in order to spread terror in the society.

After investigation all the accused were shown absconder but later on co-accused Ghulam Nabi and Amb having been assigned same allegations of making aerial firing were arrested and have been acquitted since by this Court vide judgment dated 22.03.2022 passed in Criminal Jail Appeal No.D-109/2014 (available at page No.49). Co-accused Mank who has been assigned main role has been since arrested and is facing a trial.

Learned defence counsel has argued that applicants have been booked in this case out of enmity running between the parties; no active role qua murder of deceased has been assigned to them; applicant Aago alias Sardar had earlier filed an application before this Court for bail which was disposed of giving directions to learned trial Court to conclude the trial within a

period of three months in February 2022 but those directions have not been complied with; applicants were arrested in September 2021, since then they are in jail, but not a single witness has been examined in this case. Learned Additional Prosecutor General and complainant present in person have opposed bail to the applicants urging mention of their name in FIR duly armed with weapons.

We have considered submission of parties and perused material available on record. In FIR only presence of applicants has been shown at the spot with allegations of making aerial firing only. The applicants are standing charges u/s 6/7 ATA besides u/s 147, 148, 149 PPC only because of their presence at the spot. However, question as to whether the applicants shared common intention with main accused or spread terror is yet to be determined as although they were armed with weapons but did not cause any injury to any of the member of the complainant party. Besides, the co-accused having been assigned same role have already been acquitted by this Court, a circumstance which cannot be ignored while deciding entitlement of the applicants to bail, an arrangement, temporary in nature. Impediment of absconsion, notwithstanding, in view of settled proposition that if an accused is entitled to bail otherwise, the same relief would not be withheld merely due to absconsion is therefore not attracted. We therefore in view of above discussion are of the view that applicants have been able to make out a case for grant of bail. Accordingly, both the bail applications are allowed and the applicants are granted post-arrest bail subject to furnishing a solvent surety in the sum of Rs.100,000/- (one lac rupees) each and P.R Bond in the like amount to the satisfaction of learned trial Court.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

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