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IN THE HIGH COURT OF SINDH AT KARACHI

Before: Mr. Justice Ahmed Ali M. Shaikh
Mr. Justice Mohammed Karim Khan Agha

Cr. Bail Applications No. 529 & 530/2016

Fayyaz Husain Ghouri

Vs.

The State

Date of hearing:	01-06-2016.
Date of Order	02-06-2016
Applicant:	Through Mr. Asim Munir Bajwa Advocate for applicants.
Respondent:	Through Mr. Saleem Akhtar Buriro, APG.

ORDER

Mohammed Karim Khan Agha, J. By this common order, we intend to dispose of the above bail applications submitted on behalf of the applicant under section 497 Cr.P.C.

2. According to the prosecution story the applicant namely Fayyaz Husain Ghouri son of Kamaluddin is involved in FIR No. 155/2015 u/s 4/5 Explosive Act r/w section 7 ATA and FIR No.156/2015 u/s 23(i)A, Sindh Arms Act, lodged at PS Model Colony, Karachi, wherein it is stated by the complainant ASI Musrat Hussain that on 24.8.2015 at 0330 hours he alongwith his subordinate staff were busy patrolling when at about 0330 hours they reached at Gulshan-e-Jami near Railway Crossing, Model Colony, Karachi, they saw a suspicious person standing at the road side. When he saw the police party he started running but the police party apprehended him. On inquiry he disclosed his name as Fayyaz Hussain Ghouri son of Kamaluddin. From his personal search one shell grenade and one 30-bore pistol with four bullets were recovered from his possession for which he failed to produce arms licenses. It is further stated that the accused was standing with intention to commit a big action. BDS defused the grenade. The recovered weapon was taken into possession and sealed. The memo of arrest and recovery were prepared at the spot and the same was read over to the witnesses. After completion of the

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Remains the police party returned to police station where FIRs were registered against the applicant under the aforementioned sections.

3. Learned counsel for the applicant contended in both the bail applications that the applicant is innocent and falsely implicated in these cases by the police with malafide intention and ulterior motives and no such incident as alleged in the FIR took place. He submitted that on 17.7.2015 at about 11.00 p.m. the applicant was unlawfully and illegally arrested by the rangers officials from his house No.468/1, Jannat ul Barkat, Model Colony, Karachi, in presence of his family members as well as people from the area without any justification and on the same day family members of the applicant approached police station Model Colony and tried to move an application regarding illegal arrest/detention/confinement of the applicant by the rangers officials, but the police of Model Colony flatly refused to receive the said application and did not provide any information regarding the whereabouts of the applicant. He further submitted that on 22.7.2015, the applicant's brother Riaz Hussain Khan Ghorri filed C.P No.D-4296/2015, which was in effect a habeas corpus petition before this Court regarding the illegal arrest and detention of the applicant which was disposed of on 08.10.2015 after the detention of the applicant was disclosed. According to him the ranger's officials have handed over the custody of the applicant to the police of Model Colony, Karachi who have falsely implicated the applicant in these cases. He next contended that in such circumstances no such recovery was affected at the time of the applicants arrest but was foisted upon him with malafide intention. He argued that the learned trial court has failed to consider his arguments while dismissing the bail applications of the applicant without giving cogent reasons therein. He lastly argued that this is a case of further inquiry and the applicant is entitled for concession of bail.

4. Mr. Saleem Akhtar Buriro, learned Additional Prosecutor General on behalf of the State initially opposed the bail applications as the applicant was apprehended at the spot; he had been assigned a specific role; recovery had been made from him of both an unlicensed pistol and a hand grenade which amounted to a very serious offense and thus according to him the learned trial

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court had rightly declined bail to the applicant vide bail order dated 31-3-2016.

5. However when learned State Counsel was questioned by the Court about the recovery after consulting the police papers he conceded that there were some discrepancies vis a vis the bore of the pistol which was sometimes described as 30 bore and sometimes as 32 bore. He also reluctantly conceded that there were also some other discrepancies in the police file. When asked by the Court whether under such circumstances he still opposed the bail applications he very fairly conceded that he did not.

6. Under these circumstances since the State has ultimately not opposed the grant of bail, bail was granted to the applicant in respect of FIR No.156/2015 subject to him furnishing solvent surety of Rs 100,000 (one lac) and PR bond in the like amount and in respect of FIR No.155/2015 subject to him furnishing solvent surety of Rs 200,000 (two lacs) and PR bond in the like amount both to the satisfaction of the Nazir of this Court.

7. We would like to make it clear that the State counsel's no objection to the grant of bail shall have no bearing on the trial which shall be decided on merits by the trial court based on the evidence brought before it. The trial Court is directed to complete the trial within 6 months of the date of this order. The office is directed to send a copy of this order to the concerned trial court.

8. These are our reasons for our short order dated 01-06-2016.

Dated: 02-06-2016