

ORDER-SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Bail Appln. No. S- 439 of 2016.

Date of hearing	Order with signature of Judge
30.08.2017.	

Mr. Muhammad Afzal Jagirani, Advocate for applicants.  
Mr. Gada Hussain Abro, DDPP.  
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Omar Sial, J: Applicants Aitbar Ali and Hamid Khan have sought pre-arrest bail in crime No.47 of 2016 registered under Sections 302 and 34 PPC at the Badeh Police Station. Earlier, his pre-arrest bail application was turned down by the learned 3<sup>rd</sup> Additional Sessions Judge, Larkana on 27.08.2016.

Brief facts of the case are that on 13.08.2016, one Lal Khatoon lodged the aforementioned FIR stating therein that Nazia aged 22 years is her daughter from her first marriage. Nazia married one Ahsan Ali with whom she has one daughter. She alleged that the applicants would often force Nazia to arrange jobs for them or give hem Rs.200,000. When Nazia could not do either, it annoyed the applicants. On 18.4.2016, Nazia sent a message to the complainant that the applicants are threatening her. When the complainant along with her husband Mohammad Siddique and a relative Mohammad Ibrahim reached Nazia's house they saw that Nazia's husband Ahsan was present there with a cudgel. One Iqrar and the applicant Aitbar were present with pistols, whereas applicant Hamid was standing there with a white rope. Ahsan hit Nazia with his cudgel on her head, back, arms and other parts of her body; Nazia became unconscious. Applicant Hamid then put a noose around Nazia's neck, climbed on a ladder, hung Nazia from the fan. Nazia died and the complainant saw that her body had injuries all over.

I have heard the learned counsel for the Applicants as well as the learned APG and examined the record. The complainant and her counsel remained absent despite being at notice. My observations are as follows.

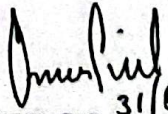


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- (i) The story as narrated by the complainant prima facie requires further enquiry. Prima facie, it seems very unnatural conduct that a mother along with two other men would stand and observe in silence as her daughter was first beaten and then an unconscious woman was hung from the fan. The story does not appeal to a prudent mind.
- (ii) Applicant Hamid is the real brother of the complainant and differences between the two apparently started when the complainant contracted a second marriage with her own freewill. On the face of it, ulterior motive and malafide on the part of the complainant cannot be conclusively ruled out at this stage.
- (iii) The complainant recorded in her FIR that the accused had beaten Nazia black and blue and that she had fallen unconscious because of the beating. The post mortem report on record shows that there were no injury marks on her body. Medical evidence does not reconcile with the ocular version.
- (iv) The incident occurred on 18.04.2016, while the FIR was registered on 13.08.2016. This three months and 25 days delay in lodging the FIR, on the face of the record, is not adequately explained.
- (v) The learned DDPP confirms that there is nothing on record to show that the white rope used in the hanging was recovered by the police. This fact is also odd as it is not the complainant's case that the accused took away the rope with them.
- (vi) The learned DDPP sates that the prosecution witnesses are all related to the complainant and that no independent witness has been cited by the complainant.

In view of the above, the case against the applicants warrants further inquiry. The applicants' interim pre-arrest bail granted vide this Court's Order of 08.09.2016 is confirmed on the same terms and conditions.

Needless to mention that the observations made herein above are tentative in nature and would not prejudice case of either party at trial.

  
JUDGE 31/8/17