

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Bail Appln. No. S-472 of 2016

Date _____ Order with signature of Judge _____

For hearing.

Date of hearing. 18-08-2017

Date of Order. 18-08-2017

.....
Mr. Muhammad Hashim Soomro, advocate for the applicant.
Syed Sardar Ali Shah, D.P.G. for the State
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ORDER

OMAR SIAL J. This post arrest bail application has been filed by the Applicant in crime number 44 of 2015 registered u/s 365 PPC at Bاده police station. His earlier bail application was declined by the learned Sessions Judge vide an order dated 02.09.2016.

2. Brief facts of the prosecution case are that on 08.12.2015, the complainant Bakshal Khan Phulpoto lodged the aforementioned FIR stating therein that on 07.11.2015 he was in his home with his son Sikander Ali, nephew Murad Ali, daughter Saeeda and other family members. At 3.00 p.m. a car stopped outside their house and five persons disembarked from it. The complainant recognized four of them as being Maqbool Brohi, Ali Asghar Brohi, Ashraf Brohi and Sultan Brohi while the fifth person remained unidentified. All the five persons took out pistols and on then Maqbool caught Saeeda by her arm and took her away in the car.

3. I have heard the learned counsel for the Applicant as well as the learned DPG and have also examined the record with their able assistance. The complainant remained absent despite being at notice.

4. Admittedly, the Applicant was not nominated in the FIR by the complainant. He was included as an accused in this crime after Saeeda returned home and

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recorded a section 164 Cr.P.C. statement before the learned Judicial Magistrate at Dokri on 24-08-2016. In her statement Saeeda recorded that on 07.11.2015 when Maqbool Brohi and others forcibly took her away the Applicant was driving the car. At this stage it seems odd that the complainant did not recognize the Applicant on the date of the incident as the Applicant is said to be a neighbor of the complainant. Further, the veracity of Saeeda's statement has to be put to the test of cross-examination as prima facie it does not appeal to a prudent mind that she not only admitted that she married Maqbool but also that she lived with him for 11 months and has a baby one month old from that wedlock, before one day she managed to escape. Her version is that she was forced to marry and live with him. There is no other evidence on record at this stage to substantiate her claim. There is no record made available to this Court as to how the Applicant was arrested and whether an identification parade was held or not. There is no explanation on record to show as to why it took the complainant one month to lodge his FIR against the accused person. In these circumstances the possibility of ulterior motive and malafide on the part of the complainant to implicate the Applicant cannot be conclusively ruled out at this stage.

5 In view of above, the case of the Applicant falls within section 497(2) Cr.P.C. and thus warrants further enquiry.

6 Above are the reasons for my short order dated 18.08.2017, in terms of which the Applicant was admitted to post arrest bail subject to his furnishing a solvent surety in the amount of Rs.100,000/- and P R bond in the like amount to the satisfaction of the trial court.


28-8-17
Judge