

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No.S-610 of 2023

Ghulam Mohammad Bhangwar & another  
Vs  
The State

Applicants : Through Mr. Muhammad Afzal Jagirani, Advocate  
along with Applicants(on bail).

State : Through Mr. Ali Anwar Kandhro, Additional  
Prosecutor General.

Date of hearing : 29.02.2024.

Date of Decision : 29.02.2024.

ORDER.

Applicants Ghulam Mohammad son of Majno @ Manja Khan and Abdullah son of Muhammad Hassan @ Popal, both by caste Bhangwar, seek their admission on pre-arrest bail in Crime No.58/2023, registered at Police Station Buxapur, under Sections 302, 311, 34, PPC. Such their request was turned down by the learned Additional Sessions Judge, Kashmore vide order dated 22.09.2023.

2. In nut-shell, the prosecution case is that on 23.06.2023, ASI Qamaruddin Domki of PS Buxapur, lodged FIR on the narration given by one Hakim Khan Bhangwar through phone to the effect that his daughter Mst. Rubina was killed by her husband Ghalib Hussain and others by throttling her with scarf by declaring her 'Kari' with one Bisharat @ Abbai Golo, whereupon after visiting the place of incident and inspecting the dead body, ASI Qamaruddin lodged FIR on behalf of State.

3. Per learned Counsel, the applicants/accused are innocent and have falsely been implicated in this case by the police; that the FIR has been

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registered by the police on behalf of State on the narration of father of deceased and not by the deceased's father himself. He next submits that during investigation the applicants were found innocent and their names were placed in column No.2 of the challan; however, they were subsequently joined by the concerned Magistrate, that the order passed by the Magistrate was challenged by the applicants before this Court by filing an application u/s 561-A, Cr.P.C., however, that application was converted into an application for protective bail and the applicants were admitted on protective bail with direction to seek remedy before the trial Court. He further submits that the complainant and PW Muhammad Hazar Khan had also filed their affidavits before the trial Court, thereby recording no objection for grant of bail to the applicants, but same were not considered. He submits that the case against the applicants requires further enquiry as envisaged under sub-section (2) to Section 497, Cr.P.C. Lastly, learned Counsel submits that the applicants/accused after furnishing surety before this Court had joined investigation as well as trial proceedings and the case has already been challaned; hence, they are no more required to police for investigation.

4. On the other hand, learned Addl. P.G. frankly conceded for confirmation of ad-interim pre-arrest bail already granted to the applicants.

5. Heard learned Counsel for the parties and perused the record made available before the Court.

6. The alleged incident of murder of deceased is shown to have taken place on 22.06.2023 at 9.00 p.m., whereas the FIR has been registered on the next day i.e. 23.6.2023, at 9.00 p.m., i.e. with the delay of 24 hours and that too by the police on behalf of State on the narration of father of deceased. There is no explanation as to why the father of deceased preferred to get the FIR registered through police instead of himself. It is also an admitted fact on record that during investigation the applicants/accused were declared innocent and their names placed in column No.2 of the challan; however, they were joined by the

concerned Magistrate. The father of deceased, on whose narration the FIR of the alleged incident was registered, and PW Muhammad Hazar Khan filed their affidavits before the trial Court, thereby recording their no objection for grant of pre-arrest bail to the applicants. In this view of the matter, it can safely be held that this is a fit case calling for further enquiry into the guilt of the applicants/accused as contemplated under sub-section(2) to Section 497, Cr.P.C. Moreover, the case after due investigation has been challaned and after grant of ad-interim pre-arrest bail, the applicants have joined the investigation as well as trial proceedings and there is no complaint against them regarding misuse of such concession. Resultantly, instant bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicants/accused on 20.10.2023 is hereby confirmed on same terms and conditions.

7. Needless to mention that the observations made hereinabove are tentative in nature, which shall not influence the trial Court, in any manner, while dealing with the trial of the case.

Application in D/o matter

~~JUDGE~~