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REGISTERED
No.Crl.A.405/2014 - SCJ
SUPREME COURT OF PAKISTAN

12

Islamabad, dated 21st August 2014

From

The Registrar,
Supreme Court of Pakistan,
Islamabad.

To

The Registrar,
High Court of Sindh,
Karachi. ✓
To AR/IC

INWARD TO 7998
BRANCH Registrar
DATE 23/8/14
HIGH COURT OF SINDH
KARACHI

Subject: CRIMINAL APPEAL NO.405 OF 2014
OUT OF
CRIMINAL PETITION NO.338 OF 2014

Ali Sher Khoso s/o Ali Akbar (deceased)

Versus

- (i) Imtiaz Khan s/o Nadir Khan
(ii) The State

(On appeal from the Judgment/Order of the High Court of Sindh, Karachi dated 21.05.2014 in Crl.Misc.Bail Application No.378 of 2014 in case FIR No.12 dated 20.11.2013 registered at Police Station Coalmines District Jamshoro)

Dear Sir,

In accordance with the provisions contained in Order XXII, rule 10, Supreme Court Rules, 1980, I am directed to enclose herewith a certified copy of the Order of this Court dated 21.08.2014 converting into appeal the above cited Criminal Petition and allowing the same in the terms stated therein for information and further necessary action.

Please acknowledge receipt of this letter alongwith its enclosure immediately.

Yours faithfully,

Encl: Order:

(NAZAR ABBAS)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

Registrar

23/8

AR/IC

(AR Criminal)

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE ANWAR ZAHEER JAMALI.
MR. JUSTICE EJAZ AFZAL KHAN.
MR. JUSTICE IQBAL HAMEEDUR RAHMAN.

Crl. P. No. 338 of 2014. (Now) Col. A. No. 405 of 2014.

(On appeal against the judgment dt. 21.05.2014 passed by the Sindh High Court at Karachi passed in Crl. Misc. Bail Application No. 378 of 2014).

Ali Sher Khoso.

...Petitioner

Versus

Imtiaz Khan and another.

...Respondents

For the petitioner: Sardar M. Ishaq Khan, Sr. ASC.

For respdt. No. 1: Mr. Farooq H. Neak, Sr. ASC.
Raja Abdul Ghafoor, AOR.

For respdt. No. 2 (State): Mr. Zaffar Ahmed Khan, Addl. P. G. Sindh.


Date of hearing: 19.08.2014 (Reserved).

ORDER

EJAZ AFZAL KHAN, J.- This petition seeks cancellation of bail granted to the respondent by the learned Judge of the Sindh High Court in its Chambers vide order dated 07.05.2014 in a case registered against him and many others under sections 302,324,427,147,148,149 and 504 PPC vide FIR No.12 dated 20.11.2013 in Police Station Coal Mines, Karachi.

2. Learned Sr. ASC for the petitioner contended that where the respondent is squarely charged for having fired effective shots at the deceased, he prima-facie stands linked with a crime attracting the prohibitory clause and that the reasons recorded for grant of bail

ATTESTED


Superintendent
Supreme Court of Pakistan
ISLAMABAD


in the impugned order being arbitrary, artificial and perverse on the face of it, cannot be sustained.

3. Learned ASC appearing on behalf of the respondent contended that the charge against the respondent is prima-facie false; that it is not supported by the medical evidence and other surrounding circumstances; that the complainant has not come off with the whole truth; that the plight of the accused party which finds expression in the cross case registered against the complainant party vide FIR No 28 dated 06.12.2013 has been suppressed; that the order granting bail does not suffer from any perversity and that the respondent even otherwise deserves concession of bail when it is yet to be determined who is aggressor and who is aggressed.

4. We have gone through the entire record carefully and considered the submissions of the learned ASCs for the parties.

5. A look at the record would show that three persons suffered death and one sustained injuries from the side of the petitioner while one person suffered death from the side of the complainant. Petitioner has been charged for having fired effective shots at the deceased. The charge against him is prima facie supported by other data so far available on the record. A cross case has also been registered at the instance of the respondent but it alone cannot be made basis for holding that there are not sufficient grounds to connect him with the crime. Who initiated aggression and who fell prey thereto may be a relevant consideration for grant of bail but it cannot be treated as of universal application to be applied in every case without considering the magnitude of loss in terms of lives and injuries on the side of the complainant. The discretion thus exercised in granting the bail to the respondent does

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Superintendent
Supreme Court of Pakistan
ISLAMABAD

not appear to be either judicious or judicial. It rather appears to be perverse in the matrix of the case. We, therefore, don't feel inclined to uphold it.

6. For the reasons discussed above, we convert this petition into appeal, allow it and recall the order granting bail. The respondent may if so advised repeat his prayer of bail if after recording some evidence his case becomes arauable for the purpose of bail.

Sd/- Anwar Zaheer Jamali, J
Sd/- Ejaz Afzal Khan, J
Sd/- Iqbal Hameedur Rahman, J

Announced in open Court at Islamabad on 21.8 /2014

Sd/- Ejaz Afzal Khan, J

'Not Approved For Reporting'
MAZ

Certified to be true Copy

Superintendent
Supreme Court of Pakistan
ISLAMABAD

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21/8/17

[Signature]
24/8/14

