

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 669 of 2020

For hearing of bail application.

Mr. Muhammad Younis Channa Advocate for Applicants.
Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

Date of Hearing: 08-02-2021
Date of Order: 08-02-2021

ORDER

Aftab Ahmed Gorar J. Today, counsel for complainant is called absent though on the last date of hearing, matter was adjourned for today with note of caution that if learned counsel for complainant avoids to proceed with the matter, this matter will be heard and decided with the assistance of learned DPG.

2. On dismissal of his Bail Application by learned Additional Sessions Judge-I (MCTC), Khairpur vide order dated 12.10.2020, applicants Naimt and Bhooral both by caste Channa have approached this Court by filing instant Crl. Bail Application under Section 497 Cr.P.C, for post-arrest bail in case FIR No. 07 of 2020, registered at P.S, Mehmood Channa, under Sections 302, 324, 403, 404, 147, 148 & 149 PPC.

3. The allegation against the present applicants, as per FIR lodged by complainant Ghulam Hyder on 27.06.2020, is that on 26.06.2020 at about 1500 hours, present applicants in association with co-accused being armed with weapon and hatchets, as members of unlawful

assembly committed murder of deceased Raja so also caused injuries to injured Zahid Hussain.

4. Heard learned counsel for the applicant as well as learned Deputy P.G for the State so also scanned the material available on record. Learned Deputy P.G for the State conceded to the grant of bail to the applicants on the ground that present applicants and all other co-accused are alleged to have made straight firing upon complainant party while chasing them, whereas, main role of causing murder of deceased Raja is attributed to co-accused Muhammad Bux alias Muhammad, while co-accused Himath and Shamsuddin are alleged to have caused injuries to injured Zahid Hussain.

5. Admittedly, the allegation against the present applicants is that they and all other co-accused made straight firing collectively upon the complainant party while chasing them, which allegation appears to be of general in nature, whereas, main role of causing murder of deceased Raja is attributed to co-accused Muhammad Bux alias Muhammad, while co-accused Himath and Shamsuddin are alleged to have caused injuries to injured Zahid Hussain, as such the vicarious liability of the applicants would be determined at trial after recording evidence.

6. Furthermore, learned counsel for applicants places on record certified copy of order dated 21.08.2020, passed by learned Additional Sessions Judge-1(MCTC), Khairpur on CrI. Pre-arrest B.A.No.1279 of 2020 to show that co-accused Bashir Ahmed having similar and identical role to that of present applicant has been admitted to pre-arrest bail on the ground that his name was placed in column-II of the

charge-sheet, as he was found innocent during investigation. Perusal of FIR reflects that the role played by said co-accused Bashir Ahmed is identical and similar to that of present applicants; as such rule of consistency is fully attracted in this case.

7. For what has been discussed above, I am of the considered view that *prima facie* the case against the applicants calls for further enquiry, as contemplated under Sub-Section (2) of Section 497 Cr.P.C. Accordingly, instant Crl. Bail Application stands allowed and the applicants **Naimat and Bhooral both by caste Channa are admitted to post-arrest bail** subject to their furnishing solvent surety in the sum of **Rs.200,000/-(Two Lac)** each with P.R bond in the like amount to the satisfaction of learned trial Court.

8. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature, therefore, the trial Court shall not be influenced in any manner whatsoever.

J U D G E

Ahmad