

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

- 1- Crl: Bail Application No.S- 480/2019
Karim Bux Mari vs. The State
- 2- Crl: Bail Application No.S- 506/2019
Ghulam Hussain Khoso vs. The State
- 3- Crl: Bail Application No.S- 521/2019
Muhammad Bux Mari vs. The State

For hearing of bail applications

21.10.2019

Mr. Achar Khan Gabole Advocate for the applicant in
Cr. B.Appln. No.S-480/2019
Mr. Faiz Muhammad Brohi Advocate for applicant in
Cr.Bail Appln. No.S-506/2019
Mr. Shabbir Ali Bozdar Advocate for applicant in
Cr. Bail Appln. No.S-521/2019
Mr. Sardar Akber F.Ujjan Advocate for complainant
Mr. Aftab Ahmed Shar, Additional PG for State

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AFTAB AHMED GORAR, J: The above listed three bail applications; one for pre-arrest and two for post-arrest bail are being disposed of by this single order as they arise out of same case registered as FIR No.36/2019 at Police Station, Lakha Road, District Naushahro Feroze, for offences under Sections 302, 324, 114, 148,149, 337-H(ii) PPC.

2. Mr. Achar Khan Gabole, advocate appearing for applicant/accused Kareem Bux Mari contended that the applicant/accused is innocent and has been falsely implicated in this case by the complainant party; that the role attributed to the applicant/accused was that he was allegedly having pistol and did not use the same in the offence, therefore, he was mere present there. It is further contended that the guilt of the applicant/accused required further inquiry, hence he may be admitted to bail.

3. Mr. Faiz Muhammad Brohi, advocate appearing for applicant/accused Ghulam Hussain Khoso contended that as per FIR, the

role attributed to the present applicant that he was having a 44-Rifle at the time of incident, but he has done nothing in the commission of the alleged offence, hence the role of mere presence has been attributed to him, which always required further inquiry. He prayed for grant of post-arrest bail to the applicant/accused.

4. Mr. Shabbir Ali Bozdar, advocate appearing for applicant/accused Muhammad Bux Mari, inter-alia, contended that the role of present applicant/accused as per FIR assigned to him is that he was having DBBL Gun in his hand at the time of incident, but he has not made a single fire from his weapon either to the deceased, injured or prosecution witnesses and only the role of instigation has been attributed to him. It is further contended that the applicant/accused has been falsely implicated in this case by the complainant party, because he has remained as indoor patient at Dow University Hospital, Karachi w.e.f 10.06.2019 to 12.06.2019 and he also placed on record such discharge card. He lastly contended that under the above circumstances, the guilt of the applicant/accused required further inquiry, therefore, the interim pre-arrest bail earlier granted to him may be confirmed on same terms and conditions.

5. Mr. Sardar Akber F. Ujjan, learned counsel for the complainant and learned Additional PG representing the State could not controvert the above contentions of the Advocates for the applicants/accused yet they opposed for grant of bail to all the applicants/accused.

6. I have given due consideration to the respective contentions of the learned Counsel for the parties. The perusal of the record reveals that the applicants/accused Kareem Bux Mari and Ghulam Hussain Khoso were allegedly armed with Pistol and 44-Rifle respectively at the time of

incident but there is no allegation that they fired either at the deceased, injured and / or the prosecution witnesses. The question regarding vicarious liability could be determined by the trial Court after recording evidence of the prosecution witnesses. In view of the above circumstances, the applicants/accused Kareem Bux Mari and Ghulam Hussain Khoso have made-out a case for further inquiry as contemplated under Section 497(2) Cr.P.C and they are granted post-arrest bail, subject to their furnishing solvent surety in the sum of Rs.200000/- (Two hundred thousand) each and PR bond in the like amount to the satisfaction of learned trial Court.

7. Adverting to the case of applicant/accused Muhammad Bux Mari, as per FIR he has been assigned the role of instigation duly armed with DBBL Gun, but he has not used the same, whereas, as per version of complainant he has instigated the co-accused who made the direct fires upon the deceased as well as the injured. The applicant/accused has placed on record copy of Discharge Card, which reflects that he has remained as indoor patient in Dow University Hospital, Karachi w.e.f. 10.06.2019 and 12.06.2019 as such the guilt of the applicant requires further inquiry. During investigation, the applicant was released u/s 169 Cr.P.C by the Investigating Officer but learned Magistrate did not agree with the report of the Investigating Officer. In such circumstances, the applicant/accused has made out a good case for grant of pre-arrest bail. Accordingly, the interim pre-arrest bail granted to the applicant/accused on 04.10.2019 is hereby confirmed on same terms and conditions. The observations made herein above tentative in nature and will not prejudice the case of either party at the time.

Judge

