

ORDER SHEET  
**IN THE HIGH COURT OF SINDH**  
CIRCUIT COURT, HYDERABAD  
Criminal Bail, Appl. No.D-15 2010

Order with signature of Judge

28.09.2010

Mr. Shamsuddin Khushik Advocate for Applicant.  
Syed Meeral Shah Deputy Prosecutor General Sindh

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Munir Ali M. Shaikh I: Through this application, applicant Daim seeks post arrest bail in crime No 120 2008 of P.S. Shahdadpur District Sanghar registered u/s 324, 353, 147 148 and 149 P.P.C. r/w sections 6,7 Anti Terrorism Act, 1997.

2. The applicant/accused approached the trial court but his bail plea was turned down vide order dated 17.04.2010.

3. Briefly stated facts of prosecution case are that on 21.09.2008 at 1200 hours, SIP Muhammad Ramzan Raho, SHO P.S. Shahdadpur lodged report stating therein that on same day he was directed by the DPO Sanghar to the effect that dacoit Ali Bux Lund alongwith his gang and abductees in Crime No.1119/2008 of P.S. Shahdadpur are available in the banana farm near Muldesi, following which, he alongwith his subordinate staff left for pointed place under the command of DPO Sanghar. At about 0830 hours, when they reached near Khosa Picket, inside the banana farm, suddenly culprits started firing, they were calling to each other with their names as Ali Bux Lund, Khamiso Domki and Daim Banbhro. They also challenged the police, however, police encircled them, meanwhile out of the culprits, three persons who were armed with Kilashankov and gun raised their hands up while rest of the culprits made their escape good. They were apprehended. The culprit who had K.K. in his hands disclosed his name as Darya Khan Domki, other accused disclosed his name as Khuda Bux from his possession a DBBL gun and bag was recovered while third one disclosed his name as Daim Banbhro and from his possession police recovered a K.K. with a loaded magazine

and a bag of 120 live bullets. Police also found abductees namely Nabi Bux and Budhal Faqir, who were tied with a tree. Police released them by breaking the locks. Arrested accused disclosed that they had abducted the abductees about a month back. Mashimama was prepared at the spot and later on accused alongwith their weapons and abductees were brought at P.S. where a case was registered on behalf of state.


4. It is inter alia contended by the learned counsel for the applicant that the applicant is innocent and has falsely been implicated in this case. Per learned counsel neither the applicant is one of the abductors nor he was member of dacoits, who abducted the abductees. It is further contended that applicant has nothing to do with the police encounter and the prosecution story is nothing but brain child of the complainant. It is lastly contended that abductees Nabi Bux and Budhal Faqir have filed their respective affidavits in which they have categorically stated that during encounter two accused namely Darya Khan and Muhammad Ashraf were arrested by the police alongwith weapons but present applicant was neither arrested during that encounter nor he was involved in their abduction.

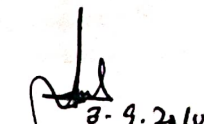
5. Conversely, Syed Meeral Shah, Deputy Prosecutor General, Sindh for the State opposed the bail plea of the applicant on the ground that his name appears in the F.I.R. and he was arrested during encounter alongwith Kilashankov, hence he is not entitled for concession of bail.

6. Heard learned counsel for the parties and perused the record. Admittedly none amongst either side received any injury, even not a single bullet hit the police mobile though there was exchange of straight firing from a short distance in which automatic weapons were used. Moreover, abductees namely Nabi Bux and Budhal Faqir have filed their respective affidavits exonerating the applicant from commission of offence. During course of arguments, they appeared in court and affirmed the contents of their affidavits to the effect that the applicant was not involved in commission of crime. They further stated that neither applicant was arrested from the place of encounter nor any weapon was recovered from his possession.

7. In the light of affidavits filed by the abductees, who are said to have been recovered from the clutches of dacoits during encounter, we are of the considered view that the case of the applicant requires further inquiry as there is prima-facie no iota of evidence connecting the applicant with the aforesaid offence.

8. For the foregoing reasons, the applicant was admitted on bail vide our short order dated 24.09.2010.

  
JUDGE

  
8-9-2010  
JUDGE

A.K