

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT HYDERABAD**

1. Cr. B.A. No.S-1038 of 2020

Abdul Hameed . . . . . Applicant

Versus

The State . . . . . Respondent

2. Cr. B.A. No.S- 1098 of 2020

Meer Muhammad alias Meer  
and others . . . . . Applicants

Versus

The State . . . . . Respondent

Applicant Abdul Hameed in Cr. B.A. No.S-1038 of 2020	Through Mr. Shabeer Hussain Memon, Advocate
Applicants Meer Muhammad alias Meer and others in Cr. B.A. No.S-1098 of 2020	Through Mr. Ghulam Hassan Qureshi, Advocate
The State	Through Ms. Rameshan Oad, A.P.G. Sindh
Complainant Abdul Karim	Through Mr. Ashar Majeed Khokhar, Advocate
Date of hearing and order	14.06.2021

ORDER

**MUHAMMAD KARIM KHAN AGHA, J.**-By this common order I intend to dispose of both the aforementioned bail applications together as they arise out of one and same incident as well as FIR.

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2. Applicants Abdul Hameed (Cr. B.A. No.S-1038 of 2020) and Meer Muhammad alias Meer, Mazhar, Azhar alias Aneel and Lal Bux alias Laloo were all booked in Crime No.77 of 2020, registered at Police Station Bhan Saeedabad, District Jamshoro, under sections 302, 324, 114, 147, 148, 149, 504 PPC. They were sent up for trial before the court of Additional Sessions Judge, Sehwan, where a charge has since been framed against all of them. All the aforesaid applicants have filed instant post-arrest bail applications before this Court as their pre-arrest and post-arrest bail applications were dismissed before the learned trial court.
3. The brief facts of the case as per complainant Abdul Karim are that, he was returning from his village when he was ambushed by the applicants and co-accused, who fired upon Ghulam Rasool, who died, and also Gulzar and Yaseen, who received injuries and became injured. The applicants then made their escape good from the scene and were later arrested.
4. Learned counsel for the applicant Abdul Hameed has submitted that there was enmity between the parties and that the complainant party has fixed the applicant in this false FIR, which was lodged a day after the incident and a cooked up case has been registered by the complainant party against the applicants party, that no recovery was made from the applicant and that this is a case of further inquiry and as such the applicant should be granted bail.
5. Learned counsel for the applicants Meer Muhammad alias Meer and others adopted the arguments of learned counsel for applicant Abdul Hameed. He also stressed that his case was on different footing to that of applicant Abdul Hameed as applicant Meer Muhammad fired upon a non-vital part of the body of deceased Ghulam Rasool. With regard to the other applicants, the only allegation against them was that they had made fire on injured PWs Gulzar and Yaseen. Both the learned counsel submitted that this was a case of further inquiry and at this stage they should be given benefit of doubt. In support of their contentions, learned counsel for the applicants have placed reliance on

the cases of **Nasir Khan V Waseel Gul and another** (2011 SCMR 710), **Sher Alam Khan alias Vakil Khan V The state and another** (2011 MLD 349), **Ahmed V The State** (2007 PCr.LJ 987) and **Mehboob V The State and another** (2019 YLR Note 54).

6. On the other hand, learned Assistant Prosecutor General and learned counsel for the complainant have stated that with regard to the applicants, they are named in the FIR and a specific role has also been assigned to all the applicants in the said FIR, that the delay in the FIR, has been fully explained and that in similar type cases bail has been refused by the Superior Courts. In support of their contentions they have placed reliance on the cases of **Ghani Khan V The State and another** (2020 SCMR 594), **Mir Hassan V The State** (2012 MLD 377), **Gulzar Ahmed alias Birjo V The State** (2017 MLD 829) and **Allah Bux and 2 others V The State** (2019 PCr.LJ Note 82).

7. I have heard the parties and perused the record as well as the case law cited at the bar.

8. At the outset, it is made clear that this order is passed on a tentative assessment of the evidence and would not have any bearing on the trial court while deciding the case which shall be decided by the trial court based on the evidence which is produced before it in accordance with law.

9. After a careful examination of the record I find that all the applicants are named in the FIR and given a specific role. It was a day-light incident and admittedly the complainant party knew the applicant party and as such they would have been able to identify them especially as the firing made by the applicants side would have taken at least a few minutes. The complainant party was unarmed and hence they were unable to put any resistance. The FIR was delayed by a period of about one day. This would only be fatal to the prosecution case if there was an unexplained delay in lodging the FIR. In this case it is quite clear that an entry (available at page-87 of the Court file of Cr. B.A. No.S-1038/2020) shows that the incident was reported to the police within one hour of the occurrence. Furthermore, the concern of the complainant was to take

the injured Gulzar and Yaseen for medical treatment and also to take the deceased firstly to the hospital for post-mortem and then for burial, as such the delay in lodging the FIR has been fully explained.

10. Applicants Abdul Hameed and Meer Muhammad have been named in the FIR with specific role of firing upon deceased Ghulam Rasool with intent to kill and the injuries to Ghulam Rasool have also been supported by the medical evidence. Applicants Mazhar and Azhar alias Aneel were assigned role of straight firing upon Gulzar with intention to kill and applicant Lal Bux alias Laloo was given role of making straight firing on Yaseen. Both injured / PWs Gulzar and Yaseen have named the applicants with specific role in their 161 Cr.P.C statements. Applicants Abdul Hameed and Meer Muhammad were arrested after 20 days of the incident and hence no recovery was made from them, likewise, it is the case of applicant Mazhar as they would have disposed of the weapons during this time. On the other hand, pistols were recovered from applicants Azhar and Lal Bux on their arrest. The Forensic Laboratory report matches the recovered pistols and the empties which were recovered from the scene.

11. Under these circumstances and for what has been discussed above, I am not inclined to grant bail to any of the applicants and as such the post-arrest bail applications of all the applicants are dismissed. However, the learned trial court is directed to complete the trial within a period of six months from the date of this order. The trial court shall examine firstly the complainant and then the injured eyewitnesses Gulzar and Yaseen. A copy of this order shall be sent to trial court / Additional Sessions Judge, Sehwan for compliance.

The bail applications stand disposed of in the above terms.

  
JUDGE