

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

Criminal Bail Application No.D-21 of 2021

PRESENT:

**MR. JUSTICE MOHAMMAD KARIM KHAN AGHA**

**MR. JUSTICE ZULFIQAR ALI SANGI**

Applicants : Through Mr. Naeem Ahmed Mangi, Advocate.  
State : Through Ms. Rameshan Oad, Assistant  
Prosecutor General, Sindh.  
Date of Hearing : 29.06.2021.  
Date of Order : 29.06.2021.

**ORDER**

**MOHAMMAD KARIM KHAN AGHA, J :-** Through this bail application, the applicants/accused namely (01) Qadir Bux alias Dado s/o Haji Allah Bux Lakho, (2) Abid Ahmed s/o Haji Allah Bux Lakho, (3) Asif Ali s/o Haji Allah Bux Lakho, (4) Shahid Ali s/o Haji Allah Bux Lakho, (5) Sajid Ali s/o Haji Allah Bux Lakho, (6) Waqar Ahmed s/o Ramzan Bhatti and (7) Muhram Ali s/o Muhammad Bux Mallah, seek Post Arrest Bail in Crime No.32/2021, under Sections 395, 364, 324, 353, 427, 337-L(ii), 148, 149 PPC, 4(b)/5 Explosive Substance Act, 1908 r/w Section 6/7 of ATA, registered at Police Station Airport District Shaheed Benazirabad. Earlier the applicants have applied for post-arrest bail which was dismissed by the learned Judge, Anti Terrorism Court, Shaheed Benazirabad vide its order dated 01.06.2021, and therefore, have now approached this Court for getting post-arrest bail.

2. The brief facts of the case as per FIR lodged by the complainant on 22.04.2021 are that after receiving spy information, the police party went to the spot where they engaged in an encounter with the applicants. During the said encounter, one police official namely PC Faheem was injured as well as kidnapped by the applicants/accused. After calling for re-enforcements the police surrounded the applicants who surrendered themselves before the police. The police also recovered PC Faheem in injured condition from the house owned by one of the applicants. Where-after the police arrested all the applicants at the spot and lodged the aforesaid F.I.R.



3. Learned counsel for the applicants has contended that this incident did not take place and completely a false case has been registered against the applicants on account of political pressure being placed on the police. According to him, it was a fake encounter managed by the police, no person from either side sustained any injuries and as such this is a case of further enquiry and the applicants are all entitled to post arrest bail. In support of his contention, learned counsel for the applicants has relied upon the case laws reported as **Muhammad Ishaq V The State and others** (2011 SCMR 1350), **Awal Khan and 7 others V The State through AG-KPK and another** (2017 SCMR 538), **Habib-Ur-Rehman V The State** (2012 YLR 66 [Sindh]), **Karamat Khan V The State** (2011 YLR 1390 [Karachi]), **Muhammad Raees V The State** (2020 PCr.LJ Note 199), **Zia Ullah and another V The State and another** (2020 PCr.LJ Note 51), **Shera V The State** (2021 MLD 292), **Bilal Mahmood V The State** (2018 MLD 1559) and **Ghulam Abbas V The State** (2017 MLD 1535).

4. On the other hand, learned Asst. Prosecutor General, Sindh has submitted that the police encounter was genuine; that crime weapons were recovered from all the applicants / accused as well as empties from the place of scene and there is also medical certificate to show that PC Faheem had been injured, as such, applicants are not entitled for post arrest bail.

5. We have heard the learned counsel for the parties and examined the record.

6. We note that the F.I.R was lodged promptly within hours of the incident which makes it unlikely that this was a cooked-up story. Learned counsel for the applicant has not proved any specific enmity against the police as to why they should falsely implicate the applicants in this case. During the encounter, the police mobile received the bullet hole and also the empties were recovered at the scene. All the applicants were arrested from the spot and crime weapons were recovered from them as well as in some cases hand grenades. When the applicants were surrounded and compelled to surrender, PC Faheem who had been earlier kidnapped by the applicants was also recovered from the house where one of the applicants namely Qadir Bux is residing. The weapon which had been taken from PC Faheem was also secured from one of the applicants and PC Faheem also received injuries during such encounter as

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proven by the medical certificate which injuries are not self inflicted. All the applicants have been named in the F.I.R and were arrested on the spot with firearms and without any enmity with the police.

7. Under these circumstances, we find that there is sufficient evidence on record to connect all the applicants with the commission of the offence for which they have been charged and as such, instant bail application for post-arrest bail is **dismissed**. However, the learned trial Court / Anti-Terrorism Court, Shaheed Benazirabad is directed to decide the matter expeditiously by framing the charge and then firstly recording the statement of the complainant and PC Faheem and any other eye witnesses of the prosecution, and thereafter conclude the trial within the shortest possible period of time. A copy of this order shall be sent to Anti-Terrorism Court, Shaheed Benazirabad for compliance.

8. It goes without saying that the observations made in this order are tentative in nature and will have no influence or bearing upon the outcome of trial which shall be decided on merits by the learned trial Judge based upon evidence placed before him.

9. The above post-arrest bail application stands disposed of in the above terms.

  
JUDGE

  
JUDGE

\*Hafiz Fahad\*