

IN THE HIGH COURT OF SINDH AT KARACHI

Before: Mr. Justice Ahmed Ali M. Shaikh, CJ
Mr. Justice Mohammed Karim Khan Agha, J

Cr. Bail Application No.545/2017

Abdul Basit s/o Hatim Baig.

Vs.

The State

Date of hearing:	11-08-2017.
Date of Order	11-08-2017
Applicant:	Through Mr. Aftab Ahmed Satti, Advocate for applicant/accused.
Respondent:	Through Mr. Muzzafar Hussain Solangi, D.P.G. for State.

ORDER

Mohammed Karim Khan Agha, J. Through this bail application under section 497 Cr.P.C. the applicant/accused seeks post arrest bail in FIR No. 208/2009, under section 302/353/324/427/34 PPC, read with section 3/4 Explosive Act, registered at police station Kalakot, Karachi South.

2. The allegations against the applicant/accused as per contents of the FIR are that on 04.10.2009 the complainant ASI Muhammad Hanif was on patrolling duty in the company of PC Ali Sher, PC Azhar Hussain and Driver PC Zafar Iqbal while patrolling as and when they reached at Mewa Shah road near family quarters police line where all of sudden they were intercepted by applicant/accused Abdul Basit and co-accused 01. Noor Muhammad @ Baba Ladla, 02. Abdul Jabbar, 03. Malik Arif, 04. Mulla Nisar, 05. Jibrail, 06. Zahoor, 07. Mulla Latif, 08. Sohail Dada, 09. Aziz Baloch, 10. Tahir Lamba, 11. Abdul Ghafar, 12. Kamran @ Kami, 13. Shafi Pathan, 14. Hassan @ Papo, 15. Faisal, 16. Abdul Jabbar, 17. Rahim @ Darinda, 18. Rashid @ Rekha and 19. Shehzad @ Faizo Dada who were accompanied with 30/40 other culprits and they all being armed with Kalashnikovs, Launchers and hand grenades started making indiscriminate firing

and threw the hand grenades which exploded, as a result of which one Naveed s/o Abdul Razzaque lost his life and 01. Qasim, 02. Mohammad Yousif, 03. ASI Ali Akber, 04. Amjad Iqble, 05. Dawood, 06. Jahangeer, 07. Shah Mohammad, 08. Kamran, 09. Abdul Ghani, 10. Hanif, 11. Maqbool Shah, 12. Ali Bux, 13. Abdul Basit, 14. Danish, 15. Mst. Rabia, 16. Ahmed, 17. Akram, 18. Maria and 19. Soomar received serious injuries hence the aforesaid FIR was lodged.

3. Learned counsel for the applicant/accused contended that the applicant/accused is innocent and has committed no offence and the police have falsely implicated him in the present case with malafide intention. It was further contended that no specific role has been assigned to the applicant/accused and as per contents of FIR there are only general allegations against the applicant/accused and that there is insufficient material to link him to the commission of the crime and as such he is entitled to post arrest bail.

4. On the other hand, Learned D.P.G. for the State has vehemently opposed the bail application on the grounds that the name of the applicant/accused is mentioned in the FIR with a specific role and one person has been killed and many others have been seriously injured on account of the firing by the applicant and others and there is sufficient material on record to link the applicant to the commission of the offense and thus the applicant/accused is not entitled to the concession of bail.

5. We have considered the submissions of learned counsel for the applicant/accused, learned DPG for the State and perused the record.

6. It is pertinent to mention here that the applicant's earlier bail application was dismissed by Incharge/Judge Anti-Terrorism Court No.III, Karachi, in Special Case No. 2272/2016 vide order dated 19.04.2017.

7. It is made clear that this order is only based on a tentative assessment of the evidence and shall have no bearing on the outcome of the trial which shall be decided by the trial court on merits based on the evidence before it.

8. In our considered view the applicant is not entitled to bail for the following reasons; the incident as narrated in the FIR amounts to a heinous offense which appears to have arisen out of the Lyari gang war which resulted in one 13 year old boy being killed and 19 others receiving serious firearm injuries including police officials; that the offense falls within the prohibitory clause; that the applicant has been nominated in the FIR; that although the role attributed to the applicant in the FIR is more of a general nature the applicant has been named and attributed a specific role by the complainant and two independent eyewitnesses (Kamran and Sarfraz) in their S.161 statements who were injured on account of the firing by the applicant and other co-accused neither of whom were police officials; that it has not been alleged that the police or the aforesaid 2 PW's had any enmity with the applicant and had any reason to falsely implicate him in this case and that prima facie there appears to be sufficient material to connect the applicant to the offense for which he has been charged.

9. Thus, for the above reasons this bail application stands dismissed.

Dated: 11-08-2017