

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.S-228 of 2020

Criminal Bail Application No.S-453 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.

For hearing of main case.

19.01.2021.

Mr. Badal Gahoti, Advocate for applicants.

Ms. Sobia Bhatti, A.P.G for the State.

Mr. Ashique Hussain D. Solangi, Advocate for complainant.

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It is alleged that applicants with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object committed qatl-i-amd of Gulzar by causing him fire shot and hatchet injuries and then went away by insulting complainant Deedar Ali and "lathi" blows to PW Imam Ali , for that present case was registered.

2. The applicants on having been refused post arrest bail by learned Additional Sessions Judge, Sehwan have sought for the same from this court by way of making separate applications under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy its dispute with them over landed property; the FIR has been lodged with delay of about six

hours; 161 Cr.P.C statements of the PWs have been recorded with further delay of one day; there is counter version of the incident and co-accused Faiz Muhammad has already been admitted to bail by learned trial Court. By contending so, he sought for bail for the applicants on point of further enquiry. In support of his contention he relied upon case of *Fazal Muhammad vs Ali Ahmad and 3 others* (1976 SCMR 391).

4. It is contended by the learned A.P.G for the State and learned counsel for the complainant that the applicants are neither innocent nor are involved in this case falsely ; they are having criminal record and they now are attempting to create counter version of the incident. By contending so, they sought for dismissal of both the bail applications.

5. I have considered the above arguments and perused the record.

6. The applicants are named in FIR with specific allegation that they committed murder of Gulzar by causing him hatchet and fire shot injuries. In that situation, it would be premature to say that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy its dispute with them over landed property. No doubt there is delay of about six hours in lodgment of FIR, but it is explained in FIR itself, same even otherwise could not be resolved by this Court at this stage. The 161 Cr.P.C statements of the PWs might have been recorded by the police on next date but this too may not be made a reason to enlarge the

applicants on bail in case like the present one. The deeper appreciation of the facts and circumstances apparently is not called for at the bail stage. The case of the applicants is distinguishable to that of the co-accused Faiz Muhammad, who has already been admitted to bail. The benefit of counter version could not be extended to the applicants simply for the reason that no FIR for the alleged counter version has yet been recorded by the police. There appear reasonable grounds to believe that the applicants are guilty of the offence with which they are charged.

7. The case law which is relied upon by the learned counsel for the applicants is on distinguishable facts and circumstances. In case of Fazal Muhammad (*supra*) the accused was admitted to bail for the reason that there was counter version of the incident. In the instant case no FIR of counter version has yet been recorded.

8. Consequent upon above discussion, it could be concluded safely that no case for grant of bail to the applicants is made out. Consequently, the instant bail applications are dismissed with direction to learned trial Court to expedite disposal of the case against the applicants preferably within three months.

JUDGE