

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail. Appln. No.S – 65 of 2021

Date	Order with Signature of Hon'ble Judge
------	---------------------------------------

For hearing of bail application

19.03.2021

Mr. Abdul Sattar Bhanbhro Advocate along with Applicants
Mr. Aftab Ahmed Shar, Additional PG for State

>>>>>>...<<<<<<<<

Aftab Ahmed Gorar, J:- Through instant Criminal Bail Application, the applicants/accused Dur Muhammad S/o Kiko, Raza Muhammad S/o Dur Muhammad and Ali Gul S/o Rasool Bakhsh, seek pre-arrest bail in case / crime arising out of FIR No.01 of 2021 registered at Police Station Sorah, District Khairpur, for offences punishable under Sections 324, 114, 337-H(2), 34 PPC.

2. It is alleged that on 01.01.2021 at 0100 hours, the present applicants/accused duly armed with guns and pistol along with co-accused intruded into the house of complainant Ghulam Muhammad Channa due to their annoyance over the refusal to give the hand of Mst. Peer Dini, and accused Arbelo caused firearm injury to injured Mst. Peer Dini which hit on her chest which through and through, therefore, the present case was registered.

3. It is contended by learned counsel that the applicants/accused are innocent and have falsely been implicated by the complainant in the instant case due to matrimonial dispute; that there is delay of 12 hours in

lodgment of the FIR for which no plausible explanation has been furnished; that the alleged incident has taken place in the night hours, therefore, the mistaken of identity cannot be ruled out; that the applicant No.1 Dur Muhammad was declared innocent during investigation and his name has been placed in column No.2 of the challan-sheet; that the role of the applicants Raza Muhammad and Ali Gul is of mere presence at the place of incident; that there is *malafaide* on the part of the complainant to implicate the applicants/accused in the present case falsely. He lastly prayed that under the above stated circumstances, the interim pre-arrest bail earlier granted to the applicants/accused vide dated 29.01.2021 may be confirmed on same terms and conditions.

4. Learned Additional PG for the State opposed to grant of pre-arrest bail to the applicants/accused by contending that the complainant in his FIR has specifically named the present applicants/accused that they along with co-accused Arbelo intruded into the house of complainant due to their grudge over the refusal of giving the hand of the injured Mst. Peer Dini, that accused Raza Muhammad caught hold of the injured and co-accused Arbello with intention to commit murder made direct fire from his gun upon her which hit on her chest through and through, but miraculously she survived, therefore, the applicants/accused are equally responsible for committing the offence, hence do not deserve for the extra ordinary concession of pre-arrest bail.

5. I have heard the learned counsel for the applicants/accused, learned Additional PG for the State and also gone through the record. First of all I

would like to take the case of the applicant/accused No.2 Raza Muhammad. The name of the applicant/accused is specifically mentioned in the FIR with active role that he being armed with Pistol caught hold of the injured Mst. Peer Dini of her arms, whereas, co-accused Abelo with intention to commit her murder made direct fire from his gun upon her which hit on her chest and went through and through (entry and exit wound), hence acted as facilitator. The version of the complainant as setout in the FIR is supported by the medical certificate as well as the P.Ws in their 161 Cr.P.C statements recorded during investigation. There appear reasonable grounds to believe that the applicant/accused Raza Muhammad is guilty of the offence with which he is charged. In view of above, while considering the facts and circumstances of the case, it could be concluded safely that no case for grant of pre-arrest bail to the applicant is made-out. Consequently, the interim pre-arrest bail already granted to the applicant/accused Raza Muhammad vide dated 29.01.2021 is hereby recalled and surety is discharged. The applicant/accused Raza Muhammad S/o Dur Muhammad Channa, who is present on interim pre-arrest bail is taken into custody and remanded to Central Prison-I Sukkur with direction that he shall be produced before the trial Court on each and every date of hearing in the aforesaid crime. Copy of this order be sent to learned trial Court for information.

6. Turning to the case of applicants/accused 1 and 3 namely Dur Muhammad and Ali Gul, although their names are mentioned in the FIR, but they were only shown present at the place of incident armed with guns,

but they did not use their weapons nor acted to facilitate the co-accused, except the role of instigation attributed to applicant/accused Dur Muhammad. As per learned counsel for the applicant/accused that applicant Dur Muhammad has been declared innocent during investigation and his name has been placed in column No.2 of the challan-sheet and such summary u/s 173 Cr.P.C filed by the Investigating Officer was accepted by the Civil Judge and Judicial Magistrate, Nara. In the circumstances, a case of further inquiry is made-out by the applicants/accused Dur Muhammad and Ali Gul. The interim pre-arrest bail earlier granted to the applicants/accused Dur Muhammad and Ali Gul vide dated 29.01.2021 is hereby confirmed on same terms and conditions. The observations made herein above are tentative in nature and will prejudice the case of either party at trial.

The bail application stands disposed of in the above terms.

Judge

ARBROHI