

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

Cr. Bail Appln: No.D-19 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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PRESENT:

Mr. Justice Aqeel Ahmed Abbasi

Mr. Justice Yousuf Ali Sayeed

Date of Hearing: 23.06.2017

Date of decision: 23.06.2017

Applicant/accused: Tasneem Alam s/o Ghulam Mohiuddin &
Raheel Qureshi s/o Ghulam Mohiuddin through
Mr. Aijaz Shaikh Advocate.

The State: Through Syed Meeral Shah Bukhari,
Additional Prosecutor General, Sindh

AQEEL AHMED ABBASI, J:- Through instant bail application filed on behalf of applicants namely Tasneem Alam and Raheel Qureshi both sons of Ghulam Muhiuddin have sought bail under section 497 Cr.P.C subject to their furnishing surety, on the following, amongst grounds.

2. Brief facts of the case as disclosed in the FIR are that SIP Barkat Ali, SHO P.S.Hali Road on 23.10.2016 left police station alongwith his subordinates in Official vehicle for patrolling vide Entry No.35 at 2145 hours and during patrolling when police party reached at Sabzi Mandi chowk, SHO received spy information that local leaders of MQM (London) duly armed with sophisticated weapons are gathered at Baldia workshop near Iqra High School and planning to spread funk, panic and terrorism in Hyderabad on account of the arrest of their leaders at Karachi and Hyderabad. On receipt of such information police party reached at pointed place and entered in Baldiya workshop where they found 8/9 persons armed with weapons and bags were lying there. On seeing the police party, four persons namely Zafar Ali Rajput, Sharif Khan, Amir Iqbal Khanzada and one unknown person succeeded to escape from the place of incident with their weapons and leaving bags while

five persons were caught hold at spot who on inquiry disclosed their names to be Intekhab Alam, Imran Ghori, Tasneem Alam, Raheel and Muhammad Momin. From personal search of accused Itekhab Alam one Rifle with two magazines each loaded wit 20 rounds and a hand-grenade were recovered, from personal search of accused Imran Ghori one G-3 Rifle with magazine loaded with 20 live bullets and 500 G-3 bullets and one hand-grenade were recovered, from personal search of accused Tasneem Alam, one pistol having six live bullets in its magazine and a hand-grenade was recovered from the personal search of accused Raheel Qureshi one hand grenade was recovered while from personal search of accused Muhammad Momin one 30-bore pistol loaded with six live bullets in its magazine was recovered. Bags left by run away accused were checked and found 1000 G-3 bullets in them. Apprehended accused and property were brought at police station and FIR was registered against them in the manner stated above further adding therein that separate cases under section 23-A of Sindh Arms Act, will be registered against accused for keeping unlicensed weapons.

3. Learned counsel for the applicants submits that both the applicants are real brothers who are falsely implicated in the above crime at the instance of ruling party on political basis, whereas, according to learned counsel, their arrest by the police is totally illegal. Per learned counsel, both the applicants were illegally arrested and detained by the police prior to the alleged incident, which fact can be ascertained from the Newspaper clippings. It has been contended that the allegation against present applicants is that on the fateful day the applicants alongwith some other co-accused persons, were planning to create terror in the area in view of the arrest of the leaders of their political party, however, neither such incident ever taken place nor police has collected any material from the accused persons. Per learned counsel, no private persons have been associated while making arrest of accused persons from a thickly populated area, whereas, recovery of pistol and hand-grenades have been

foisted upon the applicants who are real brothers. Per learned counsel, no report with regard to the status of the hand-grenade (as to whether they were live or otherwise) has placed on record nor any report which may reflect as to when hand-grenades allegedly recovered from the applicants/accused were sent to National Forensic Laboratory has been produced. Per learned counsel, applicants/accused have been falsely implicated in this crime due to a crackdown by the State machinery on MQM (London) on political differences, therefore, it has been prayed that applicants may be released on bail. Per learned counsel, even the charge against the accused persons has not been framed in the instant case and the trial has not yet proceeded, whereas, both the applicants are behind the bars since their arrest. In support of his contentions, learned counsel for the applicants has relied upon an unreported case Criminal Bail application No.D-83 of 2016 in Crime No.38/2016 U/s 5-Explosive Act 6/7 Anti Terrorism Act in which bail has been granted to the applicant.

4. Learned D.P.G was required to assist this court with regard to the submissions made by the learned counsel for the applicants, particularly, the Bomb Disposal Squad Report, relating to hand-grenades and chemical examination report if any, in response to which he has candidly stated that prosecution has not been able to place on record any such report so far, nor it is ascertainable as to when hand-grenades were examined by the Bomb Disposal Squad and were sent to the National Forensic Laboratory for chemical examination.

5. We have heard the learned counsel for the applicants and the learned D.P.G and have also examined the record with their assistance. Perusal of record reflects that alleged recovery of hand-grenade from the applicants requires further inquiry, in view of the fact that no report with regard to the status of the hand-grenades from Bomb Disposal Squad, has been placed on record by the prosecution, nor any proof has been produced before this court

to ascertain as to when the alleged hand-grenades were sent for chemical examination to the National Forensic Laboratory. The applicants are behind the bars since their arrest who are reportedly not required in any other criminal case, whereas, the trial has not yet commenced, even charge against them has not been framed so far. Bail under such circumstances can not be withheld as punishment, whereas, it appears that both the brothers have been implicated in the instant crime on political considerations. We are of the view that the matter requires further inquiry. Accordingly both the applicants namely Tasneem Alam and Raheel Qureshi are granted bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One lac only) each and P.R Bond in the like amount to the satisfaction of learned trial court.

6. Needless to observe that observations made hereinabove are tentative in nature and shall not affect the learned trial court, who shall decide the case strictly on the basis of evidence and the material available on record. In case the applicants may misuse the concession of bail in any manner, the learned trial court is at liberty to proceed against them in accordance with law.

JUDGE

JUDGE

A.Rasheed