

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-1042 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
-------------	---

1. For orders on office objections.
2. For hearing of main case.

27.10.2022.

Mr. Ameer Ali Mashori, Advocate for applicant.
Mr. Abdul Waheed Bijarani, Assistant P.G.

ORDER

Muhammad Saleem Jessar, J.- Through this application, the applicants seek their admission on post arrest bail in Crime No.139 of 2022 registered at P.S Jamshoro under Sections 324, 353, 341, 427, 147, 148, 149 PPC.

2. After completion of investigation, challan of the case has been filed, which is now pending for preliminary proceedings before the Court of Civil Judge and Judicial Magistrate-II, Kotri. The applicants filed Bail Application No.737 of 2022 before the Court of Sessions, wherefrom it was assigned to Additional Sessions Judge-II, Kotri, who after hearing the parties vide order dated 20.09.2022 has declined to entertain their bail application; hence, this bail application has been filed.

3. The case of the prosecution is that on 13.07.2022 complainant namely Inspector Asadullah Parhyar alongwith his subordinate staff left P.S in Government vehicle bearing No.PF-713 vide entry No.26 for emergency duty to control law and order situation; meanwhile, 100 to 125 persons gathered at press club Jamshoro, who all shout slogans and closed the Quetta Hotel and then rushed towards Gul Muhammad Brohi Hotel and started rioting there and in the meanwhile firing was started from three corners and due to such firing PC Abdul Sattar Kambrani, Kashif Rind and Shahnawaz Brohi sustained injuries; hence instant FIR was lodged.

4. Learned Counsel submits that though the applicants are nominated under FIR; however, they have not been assigned any specific role or overt act, even nothing is shown to have been recovered from their possession. Per available record, the applicants were arrested by the police on 15.07.2022; however, the case against them has not been proceeded. He further

submits that co-accused Ghulam Muhammad Brohi has been granted post arrest bail by this Court vide order dated 26.08.2022 passed by this Court in Criminal Bail Application No.S-863 of 2022. In support of his contention, he places a copy of such order which is hereby taken on record.

5. Learned Assistant P.G appearing for the State, in view of above legal position, does not oppose bail application.

6. No doubt, the names of applicants transpire in the FIR but no specific role or any overt act has been assigned to them except mere their presence. Nothing incriminating is shown to have been recovered from their possession or was produced by them during investigation, which may connect them with the commission of alleged offence. It is well settled principle of law that every accused is presumed to be blue eyed boy of the law until and unless he is found guilty of the charge which obviously could be possible after recording evidence of the prosecution witnesses. Therefore, the accusation against applicants is yet to be established / determined by the trial Court. In the circumstances and in view of dictum laid down by the Hon'ble Supreme Court in case of KHALIL AHMED SOOMRO & Others v. The STATE (PLD 2017 Supreme Court 730) and MUHAMMAD TANVEER v. The STATE & another (PLD 2017 Supreme Court 733), the case against applicants requires further inquiry as envisaged under sub-section (2) of Section 497 Cr.P.C. Accordingly, instant bail application is hereby allowed. Applicant Irfan Ali Chandio and Ghulam Hussain Tunio shall be released on bail, subject to furnishing their solvent surety in the sum of Rs.30,000/- (Rupees Thirty Thousand) each and P.R Bonds in the like amount to the satisfaction of learned trial Court.

JUDGE

Shahid

