

**IN THE HIGH COURT OF SINDH
BENCH AT SUKKUR**

Crl.Misc. Appln. No. S- 552 of 2023

Applicant.....Sikander Ali Kalwar

Versus

Respondents.....Hamid Raza and 06
others

Crl. Misc. Appln. No. S-553 of 2023

Applicant.....Sikander Ali Kalwar

Versus

Respondents.....Tofiq Ahmed @ Tofiq Ali and 03
others

Crl. Misc. Appln. No. S -693 of 2023

Applicant.....Sikander Ali Kalwar

Versus

Respondents.....Sikandar Ali and another

Shamsuddin N. Kobher, Advocate, for the Applicant.

Date of hearing : 23.10.2023

YOUSUF ALI SAYEED, J- The captioned Applications under Section 497(5) Cr.PC impugn the Orders made by the learned Additional Sessions Judge-II, Ghotki, on 22.07.2023, 01.08.2023 and 19.08.2023 (the “**Underlying Orders**”), allowing Criminal Bail Applications Numbers 1159, 1186, 1213 and 1331 of 2023 (the “**Subject Applications**”) preferred by the private Respondents under S. 497 Cr.PC in respect of FIR No.86 of 2023 registered under Sections 324, 452, 114, 337-A(i), 337-F(i), 147, 148, 149, PPC at P.S. Adilpur on

05.07.2023 (the “**FIR**”), hence have been heard in tandem and are being addressed through this consolidated order.

2. Succinctly stated, the FIR was registered at the behest of the Applicant, with it being alleged by him *inter alia* that an attack was perpetrated against him and some of his family members earlier that day by a dozen or so persons, including the private Respondents, who are said to have accosted him at his residence due to an altercation between him and one Muzafar Ali over a right of way. Per the Applicant, some of the assailants were armed with lathis, with which they inflicted injuries upon him and other family members, whereas Muzafar Ali is said to have been the one armed with a pistol and to have fired upon the brother of the Applicant with lethal intent, with the bullet striking him in the buttocks.
3. The Respondents, being 10 of the persons nominated by the Applicant in the FIR, moved the Subject Applications following their arrest and were enlarged on bail through the Underlying Orders, with it being noted that the allegation of firing was against Muzafar Ali alone and that the matter, as regards the private Respondents, was one requiring further enquiry.
4. Proceeding with his submissions, leaned counsel argued that the Underlying Orders were capricious, and argued that all those who had been named in the FIR had jointly perpetrated the armed attack with the common intention of taking the life of the Applicant and others present at the scene, which brought the matter within the ambit of the prohibitory clause, hence they were not entitled to the concession of bail and the same was liable to be

cancelled, with the Respondents being remanded into custody.

5. It falls to be considered at the outset that the Applicant has not advanced any argument that the concession of bail has been misused by the private Respondents in any manner whatsoever, and the only argument raised gravitates around the assertion that they were not entitled to the grant of bail as the matter fell within the second part of Section 497(1) CrPC, which provides that an accused shall not be released on bail if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life or imprisonment for ten years, popularly known as the prohibitory clause. Be that as it may, such aspect has been considered by the trial Court while distinguishing the role ascribed to the private Respondents from that ascribed to Muzafar Ali and arriving at the conclusion that, to their extent, the matter was one requiring further enquiry. That assessment cannot be said to be to patently illegal or perverse and learned counsel has otherwise failed to show how the concession of bail granted to them has resulted in any miscarriage of justice. Indeed, in the case reported as Tariq Bashir and 05 others v. The State PLD 1995 SC 34, while considering the principles relevant to cancellation of bail it was observed by the Supreme Court that:

“9. The consideration for the grant of bail and for cancellation of the same are altogether different. Once the bail is granted by a Court of competent jurisdiction, then strong and exceptional grounds would be required for cancellation thereof. To deprive a person on post arrest bail of the liberty is a most serious step to be taken. There is no legal compulsion to cancel the bail of the accused who allegedly has committed crime punishable with death, imprisonment for life or imprisonment for ten years”.

6. In view of the foregoing, the captioned Applications are found to be devoid of merit and stand dismissed accordingly.

JUDGE

Akber.