

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 41 of 2014.

Date of hearing	Order with signature of Judge
16.05.2014.	

1. For orders on office objection.
2. For hearing.

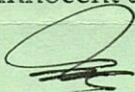
Mr. Shahbaz Ali Brohi, Advocate for applicants.
Mr. Imtiaz Ali Jalbani, A.P.G.

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Through instant bail application, applicants Bhagial Mangnejo and others seek post arrest bail in Crime No.05/2013, of P.S 20-Mile (Shikarpur), under Section 17 (4) of Offence Against Property (Enforcement of Hudood) Ordinance, 1979.

2. Relevant facts are that complainant Mst. Tagul lodged F.I.R on 15.4.2013, alleging therein that Haji Mangnejo was causing help to their enemy Mour Junejo. Complainant alongwith Ali Murad and Abdul Vakeel were available on their lands, where Abdul Aziz son of the complainant was also grazing the cattle; meanwhile accused Jameel Ahmed, Bashir Ahmed, Haji, Yousuf, Bhagial, Hoat, armed with guns, accused Ghazi Aman, armed with gun, Ghulam Qadir, Khadim, Ahsan, Zaheer, Muneer, all armed with Kalashnikovs, accused Meenhal, armed with gun, and three unidentified accused persons, armed with Kalashnikovs, emerged there. Accused Ghazi instigated to others, whereby on his instigation accused Khadim, armed with Kalashnikov, caused straight fire upon Abdul Aziz, who received such injury; thereafter other accused persons also caused fire shots upon the deceased; they raised hue and cry, whereby other villagers converged there; thus accused persons made their escape good. Complainant party found injured Abdul Aziz having various injuries on his body and he succumbed to such injuries. During this incident complainant party also encountered with accused persons, such encounter lasted for half an hour and accused persons also took away the cattle.

3. It is further revealed that after lodgment of F.I.R applicants alongwith other accused persons were arrested, investigation was transferred to C.I.A, during investigation some accused persons were found innocent and their names were placed in column No.2 of the charge-sheet.





4. Learned counsel for the applicants inter-alia, contends that co-accused Jameel alias Zamir Ahmed, Hoat, Yousif and Haji on similar allegations have been granted bail by this Court, through Order dated 25.07.2013, therefore, under the rule of consistency applicants are entitled for same treatment. In support of his contentions learned counsel relies upon 2008 SCMR 173.

5. Conversely, learned A.P.G. does not controvert above factual position, however he oppose instant bail application.

6. Heard learned counsel. Perused the record.

7. While scanning the record and perusal of earlier order as referred above, it is manifest that co-accused Jameel alias Zahid Hussain, Hoat, Yousif and Haji were granted post arrest bail. At this juncture, it would be conducive to refer relevant portion of earlier order, which is as under:

"After careful consideration of the contentions of learned Counsel and meticulous examination of available record, it is surfaced that complainant had dispute with applicant No.4 and others, on reason that they were helping to their rival Mour Junejo. It is also revealed that about 13 persons named in F.I.R and three unidentified persons armed with the lethal weapons have been implicated with the accusation that all jointly caused straight fires upon deceased, whereas one specific injury is attributed to co-accused Khadim. It is also alleged that encounter was happened with accused persons, complainant party also retaliated and such encounter was continued upto half an hour. It is further surfaced that during investigation applicants were found innocent and main charge against accused Yousuf, Bhagial, Bashir, Zaheer, Ahsan and Muneer. It is settled proposition of the law that *ipse-dixit* of the police is not binding upon the Court while deciding the bail applications, however same can be looked into coupled with other material, but in instant case enmity between the parties is admitted fact. It is also not disputed that there are general allegations against all accused persons except Khadim. Thus, these facts are sufficient to make the case of further probe with regard to the allegation of dacoity committed by the accused persons. The F.I.R itself spell out that complainant party and villagers encountered with accused persons, such encounter lasted for about half an hour, thus in such circumstances, allegations that accused persons taken away the farm animals also requires further probe."





8. In view of above, it is manifest that case of the applicants is on similar footings, who are granted bail, therefore, judicial propriety demands that applicants also deserve equal treatment under the rule of consistency. Consequently, instant bail application stands allowed and the applicants are directed to be released on bail on their furnishing solvent surety in the sum of Rs.300,000/- (Three hundred thousands) and P.R bonds in the like amount to the satisfaction of trial Court.

  
Judge

Ansari.