

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-616 of 2024
Criminal Bail Application No.S-629 of 2024
Criminal Bail Application No.S-852 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

27.09.2024

M/s. Zahid Hussain Buriro & Muhammad Nawaz Panjoto Advocate for applicants.

Mr. Tauqeer Hussain Laghari, Advocate has placed on record Vakalatnamas on behalf of complainant in Criminal Bail Application No.S-616 & 852 of 2024.

Mr. Siraj Ahmed Bijarani, Assistant Prosecutor General, Sindh.

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O R D E R

ZULFIQAR ALI SANGI, J:- Through these bail applications, applicants have sought for post-arrest bail in Crime No.05 of 2024 registered under sections 324, 504, 34 and 337-A(ii) PPC at PS Bhan Saeedabad, after dismissal of their bail plea by the learned Additional Sessions Judge, Sehwan vide separate orders dated 06.05.2024 and 24.07.2024, hence they approached this Court. Since cases are inter-connected, therefore, common order is being passed.

2. It is alleged by complainant-Mir Murtaza in the FIR that due to old murderous enmity, the applicants in furtherance of their common object caused firearm gunshot injury to him, hence instant FIR has been registered against them.

3. The bail has been sought by the counsels for applicants on the ground that accused Ahsan Ali and Qadir Bux @ Qado has assigned role of firing from the pistols but none from the complainant party has received any injury; however, the role against applicant Muhammad that he has caused gunshot upon the complainant which him on his forehead; that there is delay of one day in registration of FIR; enmity is admitted; no empty from place of incident was recovered; as per medico-legal certificate there is no bone fracture; section 161 Cr.P.C statement were recorded after two days and the mashimama of place of incident also prepared after two days of the incident, therefore, the guilt of applicants requires further inquiry, as such, they may be admitted to bail. Counsel for applicant has relied upon the cases of Ali Gohar Gopang and another Vs. The State [2022 MLD 1308], Ghulam Rasool Vs. The State [2022 MLD 1088], Meer Hassan Vs. The State [2023 Y L J R Note 84], Faqir Muhammad and 3 others Vs. The State [2021 Y L R 503] Shahid Abbas Vs. The State and others [2021 SCMR 2082] Abdul Rehman alias Muhammad Zeeshan Vs. The State and others [2023 SCMR 884] and Suboor and another Vs. The State [2024 P Cr. L J Note 824].

4. On the other hand, learned counsel for complainant and learned APG opposed the bail plea on the ground that applicants are nominated in the FIR with specific role of firing upon complainant party wherein complainant received injury of gunshot fired by applicant Muhammad on his vital party of body, therefore, they are not entitled for concession of bail. Complainant's counsel places reliance on the cases of Hilal Khattak Vs. The State and another [2023 SCMR 1182], Zeeshan Shahzad Vs. Th e State and another [2021 P Cr. L J 935], Bilal Khan Vs. The

State through P.G., Punjab and another [2020 SCMR 937], Safaidullah Shah and others Vs. The State and others [2019 P Cr. L J Note 117], Ahmad Jan Vs. The State and others [2021 YLR Note 154], Noor Muhammad Khan Vs. The State and another [2022 MLD 101], Usama Vs. The State and another [2022 Y L R Note 206] and Allah Dewayo Shahani Vs. The State through Prosecutor General, Sindh [2023 SCMR 1724].

5. Heard learned counsel for the respective parties and record perused.

6. Admittedly this incident took place on 05.02.2024 whereas FIR was registered on 06.02.2024. In respect of applicant Muhammad, as per FIR, he caused gunshot injury upon the complainant from a close distance; however after perusal of medico-legal certificate it reflects receiving of only one pellet from a firearm of gunshot which is entirely doubtful as usually cartridge is containing hundreds of pellets from which receiving only one pellet injury from close distance which even not caused bone fracture as opined by MLO is impossible. Furthermore the allegation against the applicants Ihsan, Qadir Bux @ Qadoo and Yousuf is that they fired from pistols but none has received injury. Nothing has been recovered from the place of incident including the empties which connect the applicants with the commission of offence and 161 Cr.P.C statements of the PWs were recorded with two days delay even the mashirnama of place of incident was prepared after two days but no explanation has been furnished. Under such circumstances, case of applicants require further inquiry, result thereof, these bail applications are **allowed** and the applicants are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- each in each case and PR bonds in the like amount to the satisfaction of Trial Court.

7. The observations made hereinabove are tentative and would not influence learned Trial Court at the time of deciding the case as the same are only for deciding this bail application.

JUDGE

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-593 of 2024
Criminal Bail Application No.S-594 of 2024
Criminal Bail Application No.S-595 of 2024
Criminal Bail Application No.S-596 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

03.09.2024

Mr. Irfan Ali Soomro, Advocate for applicants.

Mr. Mashooque Ali Bhurgri, Advocate for complainant Nizamuddin.

Ms. Rameshan Oad, Assistant Prosecutor General, Sindh along-with ASI Najamuddin
PS Taluka Tando Muhammad Khan.

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O R D E R

ZULFIQAR ALI SANGI, J:- Since the captioned matters are related to one and same crime having its off-shoot case(s) and even the parties are same therein, hence these are being decided together with this single order.

Applicant Murtaza (Ghulam Murtaza) in [Criminal Bail Application No.S-593 of 2024] seeks his pre-arrest bail while applicants Abdul Raheem and Ali Raza in [Criminal Bail Application No.S-595 of 2024] are praying to admit them on post arrest bail in one FIR No.47 of 2024 registered under sections 324, 506/2, 447, 147, 148 and 149 P.P.C at PS Taluka Tando Muhammad Khan as well as they are also involved in off-shoot cases bearing Crime No.48 & 49 of 2024 both registered under section 23 (i) (a) Sindh Arms Act 2013 at PS Taluka Tando Muhammad Khan after their respective bail were declined by the learned Trial Court vide separate orders dated 27.05.2024.

The case of prosecution is that accused persons had assaulted upon the complainant party by firing from their respective weapons but luckily they saved their lives by lying on the ground and after two days when they were arrested recovery of firearm arms weapons were effected from them, hence they were booked in the aforesaid cases.

The bail plea is sought on the ground that though from a short distance applicants are alleged to have fired upon the complainant party of main case with lethal weapons but none of them received single injury, therefore, section 324 PPC cannot be attributed and question regarding whether recovery has been effected or foisted by the complainant due admitted enmity is in between the parties requires evidence at trial, therefore, counsel prays for confirmation / grant of bail.

The bail applications are opposed by counsel for complainant Nizamuddin and learned APG on the ground that applicants are nominated in the FIR; that they fired upon the complainant party of main case and the recovery of empties were effected from the place of incident with positive report of recovered weapons, therefore, they are not entitled for confirmation / grant of bail.

Heard learned counsel for the respective parties and perused the record.

Perusal of record it reflects that though the applicants' party has fired from their lethal weapons upon complainant party but none of them received any injury. The contents of FIR itself reflects that complainant himself admitted that he registered the FIR after being consulted with others, therefore, false implication of the present applicants cannot be ruled out. In absence of any injury to the complainant party the positive FSL report is not helpful to the prosecution's case however question of recovery is to be decided by the learned Trial Court after recording evidence. At this stage case of applicants requires further inquiry entitling them for confirmation / grant of bail, therefore, all the bail applications are allowed. Interim pre-arrest bail earlier granted to applicant Murtaza (Ghulam Murtaza) in [Criminal Bail Application No.S-593 of 2024 vide order dated 31.05.2024 is hereby confirmed on same terms and conditions. The applicants/accused Abdul Raheem and Ali Raza are admitted to post-arrest bail in [Criminal Bail Application No.S-594, 595 & 596 of 2024] subject to their furnishing solvent surety in the sum of Rs.30,000/- each in each case separately and P.R. bonds in the like amount to the satisfaction of learned Trial Court.

Needless to mention here that observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of either party at trial.

*Muhammad Danish**

JUDGE