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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Cr. Bail Application No.S-720 of 2019
Cr. Bail Application No.S-724 of 2019
Cr. Bail Application No.S-725 of 2019

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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17.01.2020.

Mr. Ghulam Mohammad Barejo, advocate for applicant Ghulam Qadir Dasti in Cr. Bail Appln. No.S-720/2019, along with the applicant.

Mr. Gulshan R. Dayo, advocate for applicant Nadir Ali Bhutto in Cr. Bail Appln. No.S-724/2019, along with the applicant.

Mr. Qazi Rasheed Ahmed, advocate for applicant Sikandar Ali Jatoi in Cr. Bail Appln. No.S-725/2019, along with the applicant.

Mr. Aitbar Ali Bullo, DPG.

Heard learned Counsel for the applicants and learned DPG.

For the reasons to be recorded later on, all these three bail applications are dismissed.


JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Criminal Bail Application Nos. S-720, 724, & 725 of 2019

Applicant in Cr. Bail : Ghulam Qadir s/o Gul Muhammad Dasti,
 Appl. No. S-720/2019 through Mr. Ghulam Muhammad Barejo,
 Advocate

Applicant in Cr. Bail : Nadir Ali s/o Abdul Ghani Bhutto @
 Appl. No. S-724/2019 Abdul Hadi, through Mr. Gulshan R.
 Dayo, Advocate

Applicant in Cr. Bail : Sikandar Ali s/o Ali Gohar Jatoi,
 Appl. No. S-725/2019 through Mr. Qazi Rasheed Ahmed,
 Advocate

Respondent : The State, through Mr. Aitbar Ali Bullo,
 DPG

Dates of hearing : -----
 : 17.01.2020
 Date of order : 17.01.2020
 : -----

ORDER

ZAFAR AHMED RAJPUT, J:- By this common order, I intend to dispose of above-mentioned three criminal bail applications as the same being arising out of same Crime/F.I.R. have been heard together.

2. Having disposing of their earlier pre-arrest bail applications bearing No. 1562 and 1557 of 2019 by the learned VIth Additional Sessions Judge, Larkana vide order, dated 23.12.2019, on the ground that the alleged offence is cognizable by the Court of F.I.A. and the F.I.R was to be registered with F.I.A., and the cognizance was to be taken by the Court having jurisdiction of F.I.A., the applicants/accused above-named through instant criminal bail applications seek pre-arrest bail in Crime No. 98 of 2019, registered at P.S Civil Line (Larkana), under Section 420, 419, 177, P.P.C. The applicants were admitted to interim pre-arrest bail by this Court vide orders dated 30.12.2019, now they seek confirmation of their bail.

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23/01/2020

3. Briefly stated, the facts of the prosecution case are that on 04.12.2019 complainant Hamadullah, reader Banking Court No.1, Larkana, lodged the aforementioned F.I.R. alleging therein that on 03.12.2019 Nadir Ali Bhutto, Supervisor Revenue, Shahdad Kot and Ghulam Qadir Dasti, claiming to be the Tapedar, appeared before the Banking Court No.1, Larkana in hearing of a case and produced a letter in the Court stating therein that they took crops from Survey No. 142 valued of Rs. 1,00,000/-, and disclosed that half crop was given to hari (tenant) of the land. When enquired about the hari by the Judge of the Court, Ghulam Qadir pointed out towards Sikandar s/o. Ali Gohar (J.D). Later it transpired that Ghulam Qadir is not a Tapedar but a retired revenue employee and without any order of the Baking Court half crops was given to accused Sikandar.

4. The learned counsel for the applicants have mainly contended that the applicants are innocent and have falsely been implicated in this case; that accused Ghulam Qadir is a retired employee of the revenue department and he was appointed to look after additional charge of Tapo Sundo, which is another Tapo; that the crops according to the Tenancy Act was divided and half share of crop was given to hari of the land; that the decree holder bank has withdrew the execution application as the decretal amount has been paid; that the guilt of accused requires further inquiry.

5. On the other hand, learned DPG has opposed these applications on the ground that the applicants have been nominated in the F.I.R. with specific role; that they have committed cheating by personation and sold out the attached crop without any order of the Banking Court; that from the tentative assessment of the evidence available with the prosecution, the applicants are prima-facie involved in the commission of alleged offence; that pre-arrest bail is an extra-ordinary relief which is to be granted in

extraordinary situation, where prosecution is motivated by any consideration or mala fide; therefore, the accused are not entitled to concession of pre-arrest bail.

6. Heard the learned counsel for the applicants/accused as well as learned APG for the State and perused the material available on record.

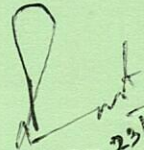
7. It appears from the perusal of record that one Ali Gohar (*father of accused Sikandar*) obtained loan from Z.T.B.L. and mortgaged his agricultural land bearing survey No. 142, 143, 145, 146B, 148, 149, 150, 164, 167, 168, 169, 170, 173, 229, 230, 232, 283, 284, 289, 290, 315, 316, and 317, total admeasuring 40 acres, situated in Deh Jatoi, Taluka Shahdad Kot and since he committed default, a Banking suit bearing No. 03 of 2017 was filed by the Z.T.B.L., which was decreed followed by Execution Application No,16 of 2017. Thereafter, the Banking Court attached the paddy crop by appointing Mukhtiarcar, Taluka Shahdad Kot as receiver for the said mortgaged land with directions to remit the produce of the land to Nazir and to submit compliance report on or before 29.10,2019. Subsequently, the accused appeared in Banking Court and submitted the report as stated in the F.I.R. It is an admitted position that accused Ghulam Qadir is a retired revenue employ but he appeared in Banking Court as Tapedar of the beat. Accused Sikandar is son of judgment debtor, but he appeared a hari (tenant) in land bearing survey No. 142. Accused Nadir being Supervisor Revenue was well aware of the facts but he appeared in Court and submitted alleged report. There appears no reason for false implication of the accused in the case. The counsel for applicants/accused have not been able to point out any special feature of the case entitling accused to grant of extra-ordinary concession of pre-arrest bail. Pre-requisites for such concession i.e. malice and ulterior motive, either on the part of complainant or the police are conspicuously

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missing in the case. Hence, these bail applications are dismissed. The interim bail granted to accused, vide orders dated 30.12.2019, stands recalled.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicants on merits.

9. Above are reasons of my short order dated 17.01.2020, where by all three aforementioned criminal bail applications were dismissed.


JUDGE 23/01/2020