

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No. S- 192 of 2016.

Date	Order with signature of Judge.
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1.For orders on office objection as flag A.

2.For hearing.

28.10.2016.

Mr. Athar Abbas Solangi, advocate for the applicants, assisted by Mr.Ahmed Bux Abro and Kamran Ahmed H. Gorar.

Mr. Sardar Ali Shah, A.P.G.

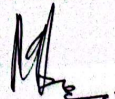
Mr. Ahsan Ahmed Qureshi, advocate for the complainant.

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Mohammad Iqbal Kalhoro-J.:-Applicants are seeking post arrest bail in Crime No.01 of 2016 registered U/Ss 302, 324 & 34 PPC at P.S Sanjar Bhatti District Kamber Shahdadkot.

Allegations against applicant Abdul Ghafoor are that he on the day of incident viz. 25.01.2016 at about 2045 hours at link road near village Allah Rakhio Kalhoro waylaid complainant party alongwith co-accused and instigated them to commit murder of the deceased namely Ali Gohar. On his instigation, co-accused Lashkari is alleged to have caused sharp side hatchet blow on his face (parietal region). The allegation against applicant Fakeer Mohammad is that in the course of said incident he had also caused a danda blow to the deceased. Applicants were arrested on 02.02.2016 but in the investigation they were found innocent and were let off U/S 497 Cr.P.C but the opinion of the police was not accepted by the learned Magistrate concerned and he joined them as accused. The applicants preferred the bail application before the trial Court but the same has been dismissed vide impugned order dated 10.3.2016.

Case of the applicants is that they are innocent and have been falsely implicated in this case on the basis of enmity which is admitted in the F.I.R; that their case require further inquiry as only general allegations have been leveled against them; that specific role



of causing death is attributed to the co-accused Lashkari and so far as vicarious liability alleged against them is concerned, it is yet to be determined in the trial. Their counsel Mr. Athar Abbas Solangi has emphasized on these points in his arguments and has additionally relied upon the following case laws:

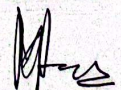
1. 2008 Y.L.R 398.
2. 2005 Y.L.R 2512.
3. 2005 P.Cr.L.J 38.
4. 1996 SCMR 1654.

Learned counsel for the complainant namely Mr. Ahsan Ahmed Qureshi has opposed grant of bail on the ground that the applicants are nominated in the F.I.R having been assigned specific role therein. He has relied upon following case laws in support of his contentions:

1. 1998 S.D 130.
2. 2000 P.Cr.L.J 80.
3. 2001 P.Cr.L.J 64.
4. 1997 SCMR 27.
5. 1994 SCMR 1147.
6. 2003 SCMR 69.
7. 2001 P.Cr.L.J 134.
8. 2000 P.Cr.L.J 33.
9. 2000 P.Cr.L.J 235.
10. 1981 SCMR 1092.

Learned A.P.G has also opposed grant of bail to the applicants.


I have considered the submissions of the parties and perused the record. The postmortem report of deceased shows that he had received one hatchet injury on his face (parietal region), a swelling on his left eye and two bruises. The hatchet injury is attributed to the co-accused Lashkari, whereas the remaining injuries, that are, a swelling on his left eye and two bruises are assigned to as many as six accused including the applicants. It is, therefore, not clear as to which accused out of all have caused these injuries, which are minor in



nature, to the deceased. Further, as per postmortem the fatal injury was the injury caused by hatchet, that is attributed to co-accused Lashkari. Applicant Abdul Ghafoor is uncle of main accused Lashkari and applicant Fakir Mohammad is his father and I have also been informed that the remaining accused, whose names appear in the F.I.R, are brothers of the main accused. It appears, prima facie, that entire family has been roped in by the complainant in the present case with the main role assigned to only one accused namely Lashkari. The parties are already at odds with each other, which has even been admitted in the F.I.R, therefore, false implication of the present applicants can not be ruled out. As to the vicarious liability and the role attributed against them, in my view, the same are yet to be established in the trial.

For the time being, the material with the prosecution has collected against the applicants is of such a nature that it requires inquiry into their guilt. The facts that the applicants were found innocent in the investigation is also relevant in the backdrop of above discussion. Consequently, finding the applicants entitled to the grant of bail, this application is allowed. Applicants are granted bail in the sum of Rs.200,000/= each and P.R bond in the same amount to be executed before the trial Court to its entire satisfaction.

The bail application is disposed of in above terms. The findings recorded are tentative in nature and would not prejudice either party in the trial.


JUDGE 28-10-2016.