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ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 426 of 2016.

Date of hearing	Order with signature of Judge
28.10.2016.	

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

Mr. Rashid Mustafa Solangi, Advocate for applicant.
Mr. Sardar Ali Rizvi, A.P.G.

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Applicant Bhooral alias Hashim Kosh is seeking post-arrest bail in Crime No.65/2014, registered at P.S Miro Khan, for offences under Section 302, 148, 149, 114 PPC.

The incident is alleged to have taken place on 18.12.2014, at about 04.30 p.mn. at a road going from Sijawal to Miro Khan near "Gothan-ja-Chhara". In all nine accused are nominated in FIR. The applicant is alleged to be armed with the pistol and had fired on the deceased alongwith four other co-accused, who also at the same time from their weapons had fired at the deceased. As a result of such firearm injuries, the deceased died and the present FIR was registered.

Applicant's counsel has argued that applicant is innocent and has been falsely implicated in this case on the basis of enmity; that there are general allegations against him and it is yet to be determined in the trial as to which injury caused death of the deceased; that memo of dead body although was prepared before the registration of FIR but the same contains crime number, which makes case of the applicant to be of further inquiry; that presence of prosecution witnesses and complainant is doubtful because there is inconsistency in ocular account of the incident and medical evidence; that whole prosecution story is improbable and untrustworthy of credence. In support of his arguments, he has relied upon 2002 P.Cr.L.J. 791 and 2005 MLD 126.

On the other hand learned A.P.G. has opposed grant of bail to the applicant and has pointed out that there is no contradiction in ocular




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account and medical evidence. According to him, applicant is nominated in the FIR with specific role and is not entitled for bail. In support of his arguments and to counter the contention of learned counsel vis-a-vis mention of crime number on the memo of dead body, he has referred to the case law reported in 2010 P.Cr.L.J. 787 and states that it is a mere irregularity curable under Section 537 Cr.P.C.

I have considered the submissions, perused the material available on record and the case laws cited at the bar.

In the FIR, the applicant is nominated with specific role of causing firearm injury to the deceased. In the postmortem on the person of deceased, six firearm injuries were found by the Medico Legal Officer, which prima-facie support the prosecution case. The witnesses in their statements under Section 161 Cr.P.C. have also supported the prosecution case by implicating the applicant. There appears no contradiction in the medical and ocular account furnished by the complainant and prosecution witnesses. So far as the mentioning of crime number in the memo of dead body, which allegedly was prepared before registration of FIR, suffice it to say that it cannot be considered to have discarded the prosecution case on merits and appears to be an irregularity, which is curable under Section 537 Cr.P.C. In the bail application the record has to be appreciated only tentatively, as the deeper appreciation of the evidence is not allowed. In presence of material on record, I find that the applicant is not entitled for grant of bail, this application, therefore, is dismissed. However, the trial Court is directed to expedite the trial and conclude it in five months; whereafter the applicant would be at liberty to file a fresh bail application, which if filed, shall be decided in accordance with law.

  
JUDGE 28-10-2016