

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1245 of 2017
Criminal Bail Application No.1246 of 2017

Date Order with signature(s) of Judge(s)

For hearing of bail application(s)

11.10.2017

Mr. Aroon Parsad, advocate for applicants
Mr. Mushtaq Ahmed Jahangiri, Spl. Prosecutor, Pakistan Rangers Sindh

Applicants/accused Muhammad Adnan Khan and Kashif Ali are seeking post arrest bail in F.I.Rs. Nos.42/2016 and 43/2016, registered at P.S. SIU East, Karachi on 28.03.2016, under section 23(1)(a) of the Sindh Arms Act, 2013. After registration of F.I.R., investigation was conducted and challan was submitted against the accused before learned Judge, Anti-Terrorism Court-II, Karachi, under the above referred section.

2. Bail application was moved on behalf of applicants/accused and co-accused Taufiq Ali Jagirani before the trial court, the same was dismissed by the learned trial court vide order dated 19.06.2017. Co-accused Taufiq Ali Jagirani, after dismissal of bail application by the trial court, approached this Court and in Criminal Bail Application No.255/2017, concession of bail was extended to applicant/accused Taufiq Ali Jagirani vide order dated 28.03.2017.

3. Learned counsel for the applicants/accused mainly contended that in the main case bearing Crime No.40/2016, registered at P.S. SIU East, Karachi on 28.03.2016, under sections 353, 324, 34, PPC read with section 7 of the Anti-Terrorism Act, 1997, bail has already been granted by this Court to the applicants/accused today and it is the off-shoot of the main case. Contentions of the learned counsel for the applicants/accused are not controverted by Mr. Mushtaq Ahmed Jahangiri, learned Special Prosecutor for Pakistan Rangers Sindh.

4. It appears that in the main case, applicants/accused Muhammad Adnan Khan son of Muhammad Umer Khan and Kashif Ali son of Karim Bux have already been granted bail by this case today for the following reasons:-

“5. We are inclined to grant bail to applicants/accused Muhammad Adnan Khan and Kashif Ali for the reasons that co-accused Taufiq Ali Jagirani has already been granted bail by this Court vide order dated 28.03.2017 for the following reasons:-

“We have heard the learned counsel for the applicant, Special Public Prosecutor and perused the record. Contention of learned counsel for the applicant that it is a case of ineffective firing carries weight as none from either side or any passerby received injury or scratch during the alleged encounter. Besides, during investigation except alleged recovery of one unlicensed pistol with live bullets police could not collect any material connecting the applicant with the commission of offence. Strangely, police said to have recovered one un-licensed pistol with bullets from the applicant but learned Special Public Prosecutor could not point out whether any case under the Sindh Arms Act, 2013 has so far been registered against the applicant. Besides, all the prosecution witnesses are police personnel but till date only complainant SIP Rashid Hussain Alvi could be examined while the applicant has been behind the bars since the date of alleged incident i.e. 27.03.2017.

For the foregoing reasons, we are of the considered view that applicant has made out a case for grant of bail as his participation in the alleged occurrence requires further inquiry. Accordingly, instant application is allowed and applicant Taufiq Ahmed Jagirani son of Noor Muhammad Jagirani is granted post arrest bail subject to his furnishing solvent surety in the sum of Rs.300,000/- (rupees three hundred thousand) with PR bond in the like amount to the satisfaction of the trial Court.”

6. Case of the applicants/accused is identical. Moreover, it appears that investigation officer did not inquire into the press conference and applications submitted by the mothers of the applicants/accused that accused were picked up by the law enforcement agency before registration of the case. It is also a case of infective firing. Case of the applicants/accused requires further inquiry, therefore, instant bail application is allowed. Applicants/accused Muhammad Adnan Khan son of Muhammad Umer Khan and Kashif Ali son of Karim Bux are granted post arrest bail in the sum of Rs.300,000/- (rupees three hundred thousand) with P.R. bond in the like amount to the satisfaction of the trial Court.”

5. As it is the off-shoot of main case, in main case bail has already been granted. Prima facie, case requires further inquiry, therefore, concession of bail is extended to applicants/accused Muhammad Adnan Khan son of Muhammad Umer Khan and Kashif Ali son of Karim Bux, subject to their furnishing solvent surety in the sum of Rs.300,000/- (rupees three hundred

thousand) each with P.R. bond in the like amount to the satisfaction of the trial Court.

6. Needless, to mention here that the observations made hereinabove are tentative in nature, the same would not influence the trial court while deciding the case of the applicants/accused on merits.

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