

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
Crl. Bail Application No. S- 289 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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02.03.2015

Mr. Rashid Mustafa Solangi, advocate for the applicants.
Mr. Khadim Hussain Khooharo, DPG.
Mr. Shahbaz Ali M. Brohi, advocate for complainant.

Applicants/accused Qabil and Badeehal Jatoi seek post arrest bail in Crime No.18/2012 registered at Police Station Naparkot, for offences under Sections 302, 148, 149, PPC.

Brief facts of the prosecution case as disclosed in the F.I.R are that incident had occurred on 14.03.2012 at 6-00 p.m. in the lands of Meer Ahmed Khan Jatoi. According to the contents of F.I.R applicants/accused Qabil, Badeehal and Janan fired from their Klashnikovs which hit to deceased Zanwar Hussain and he fell down and died. F.I.R under the above referred sections was registered. Section 6/7 of Anti Terrorism Act, 1997 was also added. After usual investigation challan was submitted against the accused persons for offences under Sections 302, 337-H2, 148, 149 PPC.

Bail application was moved on behalf of applicants/accused before the learned Sessions Judge, Shikarpur, the same was rejected vide order dated 20.6.2013.

Mr. Rashid Mustafa Solangi, learned counsel for the applicant contended that there is enmity between accused Badeehal and Chakar; prosecution story is unbelievable. There is inordinate delay in lodging of F.I.R; Investigation was started before F.I.R. It is contended that complainant appeared at Police Station but did not lodge F.I.R and simply got letter for referring the deceased to



Hospital, such entry was made in which there is no mention of accused Badeehal and Qabil. It is also argued that Rocket Launchers were used in the commission of the offence but same were not recovered. It is also argued that there was no recovery from the applicants/accused during investigation. Lastly, it is argued that case against the applicants requires further enquiry. In support of his contention, he has placed reliance on the cases reported 2005 MLD 1267 and 2008 P.Cr.L.J **211**.

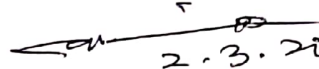
Learned advocate for applicant/accused, after arguing his bail application at some length does not press bail application moved on behalf of accused Badeehal, hence the same is dismissed as not pressed.

Mr. Khadim Hussain Khooharo, learned DPG assisted by Mr. Shahbaz Ali Brohi, learned counsel for the complainant argued that accused Qabil had fired upon the deceased and he died. It is also argued that ocular evidence is corroborated by medical evidence. They have opposed the bail application of accused Qabil.

I am not inclined to grant bail to accused/applicant Qabil for the reasons that complainant Wazir has specifically mentioned in the F.I.R that accused Qabil fired from his klashnikov which hit to deceased at his thigh. The two eyewitnesses namely Waheed and Muhammad Khan in their 161, Cr.P.C. statements have also fully implicated the accused Qabil. Ocular evidence is corroborated by medical evidence. Contention of learned counsel for the applicant that there was enmity between the accused persons and prosecution story was unbelievable. Other contention of learned counsel for the applicant that complainant did not lodge the F.I.R at police station and only obtained letter for referring the deceased to the hospital and delay in lodging F.I.R. Such contentions can only be appreciated after recording evidence. Deeper appreciation of evidence is not permissible at bail stage. It appears that there are reasonable grounds for believing that applicant/accused Qabil has prima facie,

committed offence punishable for death or imprisonment for life. Therefore, bail application moved on behalf of applicant Qabil merits no consideration, the same is hereby dismissed.

8. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.


2.3.2015.
Judge

Abid H. Qazi/**