

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 354 of 2016.

Date of hearing	Order with signature of Judge
28.11.2016.	

FOR HEARING.

Mr. Shahbaz Ali Brohi, Advocate for applicant.
Mr. Shakeel Ahmed Ansari, Advocate for complainant.
Mr. Sardar Ali Rizvi, A.P.G.

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Through this application, applicant Muhammad Ismail seeks post arrest bail in Crime No.77/2014, P.S Khanpur, registered under Sections 302, 148, 149, 337-H (2) P.P.C.

Applicant is nominated in F.I.R and the role attributed against him is that on the day of incident viz. 19.6.2014 at about 7.00 p.m. he duly armed with gun alongwith co-accused (seventeen in number) waylaid complainant party, who were coming on motorcycle and after they got them alighted, co-accused namely Badal, Karim Bux and Yar Muhammad committed murder of deceased Abdul Razzak by firing at him.


Counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in this case; that no role is attributed against him except his presence on the spot, therefore, his case calls for further enquiry and he is entitled to bail. Learned counsel has relied upon 2013 SCMR 49.

On the other hand learned counsel for the complainant has opposed grant of bail to the applicant and has argued that three witnesses have been examined by the learned trial Court, who have fully supported the case against the applicant, therefore, he is not entitled to the relief of bail. He has relied upon the case laws reported in 1996 P.Cr.L.J 1004, 1998 SCMR 01, 1999 P.Cr.L.J 698, 2006 YLR 3007, 2008 P.Cr.L.J 1201, 2009 P.Cr.L.J 1327 and 2009 P.Cr.L.J 1388.



Learned A.P.G. has also opposed grant of bail.

I have perused the material available on record and the case laws cited at the bar. It appears that when the bail application of the applicant was dismissed, the trial Court had not yet recorded the evidence, but thereafter evidence of three witnesses has been recorded. In the circumstances, <sup>not in</sup> only the F.I.R, but the evidence of the witnesses has to be looked into tentatively. The witnesses in their evidence have deposed against the applicant, which prima-facie shows his involvement in the offence carrying capital punishment. It may be mentioned that learned counsel for the complainant has undertaken to produce all the remaining witnesses before the Court and get the trial concluded within a period of two months. In my view, as the trial has commenced and evidence of three witnesses out of six witnesses has already been recorded, it is very likely that trial would be concluded within a reasonable time. Therefore, this bail application is dismissed. The trial Court, is directed to expedite the trial and conclude the same in three months. At this juncture, the learned counsel for applicant has informed that trial Court is lying vacant. Learned A.P.G. and counsel for the complainant have raised no objection if the case is assigned to learned Sessions Judge for further proceedings. In the circumstances, let the learned Sessions Judge, Shikarpur either conduct the trial of the case himself or assign it to some other Additional Sessions Judge for proceeding further in accordance with law within the period as stated above.

  
JUDGE 28-11-2016.