

39

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Crl. Bail Appln. No.S-328 of 2021

Date _____
Order with signature of Hon'ble Judge

1. For orders on office objection.
2. For hearing of Bail Application.

Mr. Mohammad Afzal Jagirani, advocate for the applicant

Mr. Ali Anwar Kandhro, Additional Prosecutor General

Mr. Mohammad Ashique Dhamraho, advocate for the complainant.

Date of Hearing : 13.10.2021.

Date of decision : 15.10.2021.

ORDER

Omar Sial, J.- Deedar Ali Brohi has sought post arrest bail in Crime No.13 of 2021 registered under sections 302, 337-H(ii), 114 and 34, P.P.C. at the Dokri police station. Earlier his post arrest bail application before the 6th Additional Sessions Judge, Larkana was dismissed via Order dated 28.06.2021.

2. FIR was registered by Ghulam Umer Junejo on 16.02.2021. He recorded that a year ago his son Javed Ali Junejo had a love marriage with Jameela Brohi. Some time ago, Manzoor Brohi who ostensibly was Jameela's father took her back home and would not let his family or her husband meet her. Javed Ali approached the court for return of his wife which move annoyed Manzoor Brohi. On 15.02.2021, the complainant along with Javed and two other relatives were standing outside a bakery in Dokri when Manzoor along with Deedar, the applicant, Abdul Hameed and Allah Buksh appeared on the scene. Deedar and Allah Buksh held Javed by his arms and upon the instigation of Abdul Hameed, Manzoor alias Koro Brohi shot Javed.

3. Learned counsel for the applicant has argued that there is a delay of one day in the lodging of the FIR. The case is a false case. The only allegation against the applicant is that he caught Javed by his arm and that Abdul Hameed was found innocent during investigation. Learned Additional Prosecutor General has supported the bail dismissing Order of the learned trial court.

4. I have heard the counsels for the applicant and the complainant as well as the Additional Prosecutor General.

5. My observations and findings are as follows.

6. There is a delay of slightly less than one day in the filing of the FIR. However, *prima facie* keeping in view the circumstances in which the incident has occurred, this delay and its impact will be determined by the learned trial court at trial. At this preliminary stage, I am not inclined to give any leniency to the applicant on this count. It is true and correct that the fire was shot by Manzoor *alias* Koro Brohi and that whether the applicant shared a common intention and thus is vicariously liable for the acts of Manzoor will have to be determined at trial. However, *prima facie* it appears that the applicant did play an active role in assisting Manzoor Brohi in this entire episode. Section 161, Cr.P.C. statements of the witness(es) support the complainant's version and do not appear exaggerated. The Medical Report *prima facie* reconciles with the ocular version; recovery of the crime weapon has been made from Manzoor; one empty was also found from the place of occurrence; Abdul Hameed was placed in column two of the challan. However, the learned magistrate declined to accept this recommendation of the police. Further, Abdul Hameed has been assigned the role of instigation, whereas the applicant, as mentioned above, has played an active role in subduing and restraining Javed.

7. Keeping the background of the accused party's daughter Jameela eloping with Javed and then Javed taking efforts through legal means to recover her from her family members, *prima facie*, it appears that there was a motive for the accused to eliminate Javed.

8. In view of the above and upon a tentative assessment, it appears that the prosecution has sufficient evidence to establish the nexus of the crime with the applicant. Accordingly, the bail application stands dismissed.

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AS
15/10/21
JUDGE