

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Bail Appln. No. S- 251 of 2017.

Date of hearing 25.08.2017.	Order with signature of Judge
--------------------------------	-------------------------------

Mr. Asif Hussain Muhammad Nawaz Chandio, Advocate for applicants.

Syed Kazim Raza Shah, Advocate for complainant.

Mr. Aijaz Mustafa Samtio, DDPP.

~~~~~

Omar Sial, J: Applicants Shabir Ahmed, Nizamuddin, Akhtar Ali and Shah Muhammad have sought pre-arrest bail in Crime No.10 of 2017 registered under Sections 302, 309, 120-B and 34 PPC at the Waleed Police station, Larkana. Earlier, their pre-arrest bail application was turned down by the learned 6<sup>th</sup> Additional Sessions Judge, Larkana on 14.6.2017.

2. Brief facts of the prosecution case are that 23.01.2017 at about 1900 hours one Allah Dino Kalhoro lodged a report at the police station stating therein that he is a defaulter of the electricity company WAPDA. That the electricity connection to his house was disconnected and meter removed by the officials of the electricity company. A week ago, the Applicants Shah Mohammad and Nizamuddin Gaad accompanied with other officials from the electricity company came to his house and stated that the complainant was illegally consuming electricity and that if he paid a bribe of Rs.50,000/- his arrears of Rs.150,000/- will be cleared and the legal supply of electricity restored. They threatened him of dire consequences if their demand was not met. On 29.12.2016 at about 1:00 p.m. screams were heard by the complainant who then discovered that his son Mohammad Saqlain had been electrocuted as the gate of the house had an electric current running in it due to an exposed electric wire touching it. Saqlain subsequently died and the complainant was informed by his neighbors that Applicant Shabbir had come with one Sajjad Jamali and Muharram Ali and while Applicant Shabbir exposed the wire, his companion Sajjad threw the exposed wire towards the house of the

OS

complainant. The police declined to register a FIR however the same was registered after the orders of the Justice of Peace. The police found the Applicants innocent after investigation but the learned Magistrate declined to agree with the police recommendation.

3. I have heard the learned counsel for the Applicants, the complainant as well as the learned DDPP and have also perused the available record. My observations are as follows.

4. Admittedly, no overt act has been attributed to Applicants Nizamuddin, Akhtiar Ali and Shah Mohammad. Even their presence is not alleged at the spot. The charge of conspiracy needs to be proved after evidence is led as there is nothing on record at this stage to remotely suggest the same.

5. As regards the Applicant Shabbir, it is alleged in the FIR that he exposed the wire, whereas it was Applicant Sajjad Jamali who threw the wire in the house. The story of the complainant as narrated in the FIR does not prima facie appeal to a prudent mind. Admittedly, the electricity supply to the house of the complainant had been disconnected and the meter removed earlier. Admittedly also, the Applicant was engaged in the theft of electricity through a "kunda". In such circumstances, the Applicant's own negligence and acts as a reason for the death of his son cannot be conclusively ruled out at this stage. The incident occurred on 29.12.2016. The Justice of Peace had issued the requisite directions on 14.01.2017. However, it was not until 23.01.2017 that the complainant approached the Police Station to lodge the FIR. No explanation is yet on record as to why this delay for 9 days occurred. The section 161 Cr.P.C. statements of the villagers who allegedly saw the Applicant and accused Shabbir have not been made available in Court by the learned DDPP.

6. The complainant admittedly is a defaulter of the electricity company and as such ulterior motive and malafide on his part to implicate the officials of the electricity company cannot be conclusively ruled out at this stage. There appears to be no ostensible motive for the





Applicants to commit the murder of the son of the complainant. The case against the Applicants also warrants further enquiry in view of the foregoing.

7. Above are the reasons for my short order of 25.8.2017, in terms of which the interim pre-arrest bail granted to the Applicants on 16.6.2017 was confirmed on the same terms and conditions.
8. Needless to mention here that observations made herein above are tentative in nature and would not prejudice case of either party at trial.

  
8/9/17  
JUDGE