

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-261 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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FOR HEARING.

21.09.2017.

Mr. Mashooque Ali Bhurgri, Advocate for applicant.
Mr. Shahid Ahmed Shaikh, D.P.G.
None present for the Complainant

ORDER

ABDUL MALIK GADDI, J:- Applicant/accused namely *Muhammad Umer S/o Khamoon Bhan* is present on interim pre-arrest bail granted to him by this Court vide order dated 13.04.2016. Today, this bail application is fixed for confirmation or otherwise.

2. Briefly the facts of the prosecution case as disclosed in the FIR are that on 07.02.2016 at 1830 hours, the complainant Abdullah S/o Allahdino Bhan lodged FIR at P.S Khoski alleging therein that they are in all five brothers and due to matrimonial dispute they were having not the good terms with Hassan Bhan and others. The *Faisla* (decision) of matrimonial dispute was held by *Nekmards* of the locality but Hassan Bhan and others had not compromised heartedly. It is further alleged in the FIR that on 05.02.2016 in the evening time, he alongwith Abdul Rauf and Saleh Muhammad were available in the house, whereas his brother Sharif and Moharam had gone to land while his brother Ramzan aged about 30/32 years used to work at the field of melons. At about 7:45 p.m. the complainant heard cries from Kabir Bridge and also heard fire arm reports on which the complainant, Abdul Rauf and Sale Muhammad went running there and saw that on the path of Bero Shakh a motorcycle was going, where they also saw that complainant's brother namely Ramzan had received bullet injury and blood was oozing and he was lying unconscious. The

complainant party raised cries on which neighbourer came running on the spot and the said incident was informed to the police. Thereafter, the complainant took his injured brother towards hospital but on the way he expired, hence the present FIR lodged against the accused.

3. Learned Counsel for the applicant/accused contended that the applicants/accused is innocent and he has been falsely implicated in the present crime. He further submits that there is no eye witness of the alleged incident and that the FIR is delayed for about two days, which has not been plausibly explained by the complainant party. It is further contended that the complainant is himself the witness of the incident; that the police had joined the applicant/accused for the purpose of investigation and after investigation he was released on the ground of his innocence, therefore, the case of the applicant/accused comes within the ambit of Section 497 Cr.P.C. Learned Counsel for the applicant/accused further submits that co-accused Azeemullah has been granted post arrest bail by this Court vide order dated 09.02.2017 passed in Criminal Bail Application No.S-382 of 2016, therefore, according to him the case of the present applicant/accused is on better footings to that of co-accused who has been granted bail by this Court.

4. Learned Deputy Prosecutor General half-heartedly argued the matter and he is not able to controvert the legal position as stated by the learned Counsel for the applicant particularly in view of the bail order dated 09.02.2017 passed by this Court.

5. I have given my anxious thoughts to the contentions raised at the bar and perused the case papers so made available before me. .

6. Admittedly, all the prosecution witnesses are near relatives of the deceased and none from the neighbourer has been cited as witness who may

confirm the factum of incident. The enmity has been admitted by the complainant in the FIR, hence, their evidence requires corroboration, which is lacking in this case. This incident is un-witnessed one as nobody has seen the applicant/accused or any other while committing the murder of the deceased. There is also unexplained delay of two days in lodgment of FIR, hence, false involvement of the applicant in this case after due deliberation and consultation cannot be ruled out. Applicant/accused is on bail since 13.04.2016 and he is regularly attending the Court without any substantial progress in the trial. The main accused Azeemullah has already been granted post arrest bail by this Court in Criminal Bail Application No.S-382 of 2016. The perusal of record further shows that the case of the present applicant is on better footings to that who has been granted bail by this Court.

7. In view of the above facts and circumstances of the case, the applicant has made out the case for confirmation of his bail, thus, the interim pre-arrest bail already extended in favour of the applicant/accused is hereby confirmed on the same terms and conditions with direction to the applicant/accused to appear before the Trial Court regularly to face his trial. Since the matter pertains to the year 2016, therefore, the Trial Court is directed to proceed with the matter expeditiously and to avoid un-necessary adjournment to the either side.

8. Needless to mention here that the observations made in this bail order are tentative in nature and shall not in any way affect the merits of the case at the trial.

Bail application stands disposed of.

JUDGE