

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Cr. Bail Application No.S-331 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

21.08.2017.

Mr. Muhammad Ishaque Khoso, Advocate alongwith applicant.

Mr. Shahid Ahmed Shaikh, D.P.G for the State.

None present for the complainant.

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ABDUL MALIK GADDI,J- Applicant/accused is on interim pre-arrest bail granted to him by this Court vide order dated 5.6.2017. Today this bail application is fixed for confirmation or otherwise.

2. The allegation against the applicant/accused is that he alongwith co-accused Mumtaz, Manzoor and Munawar collectively fired at the deceased Ghulam Muhammad, resulting of that injuries, deceased Ghulam Muhammad died on the spot.

3. Learned counsel for the applicant submits that applicant has been booked in Crime No.131 of 2006, registered at P.S.Matli under sections 302, 114,109 and 34, PPC. He further submits that allegation made against the applicant in the subject F.I.R. are absolutely false and has been falsely implicated in this case due to political rivalry. He further submits that co-accused Mumtaz, Manzoor and Munawar have been acquitted by the trial Court vide judgment dated 30.4.2010, as such, according to him, similar treatment should be given to the applicant/accused under the rule of consistency by granting him bail.

4. Learned D.P.G. for the State has opposed the bail application on the ground that after submission of challan before the trial Court, the applicant deliberately did not appear to face the trial.

5. I have given my anxious thoughts to the contention raised at the bar and have gone through police papers so available before me.

6. It appears from the record that the allegation against the applicant that he alongwith co-accused Mumtaz, Manzoor and Munawar collectively fired at the deceased Ghulam Muhammad, resulting of that firing, deceased

Ghulam Muhammad died on the spot. It also appears from the record that 8 empties of pistol and 6 empties of KK were allegedly recovered from the place of incident and it is yet to be determined at the time of trial whether the deceased was died due to fire arm injuries attributed to the present applicant. It also appears from the record that co-accused Mumtaz, Manzoor and Munawar have been acquitted after full dressed trial by the trial Court although the allegations against them are same as leveled against the present applicant/accused, therefore, at this stage the case of the applicant requires further probe. It is pointed out that applicant/accused is appearing before trial Court regularly to face the trial.

7. As far as absconsion of accused in this case is concerned, in this respect, it is suffice to say that right of bail could not be refused to accused merely on account of his alleged absconsion, which is factor relevant only to the propriety. Bail was some time refused to an accused person on account of his absconsion, but such refusal of bail proceeded primary upon the question of propriety and whenever a question of propriety was confronted with question of right the latter must prevail. Even otherwise, the absconsion will not come in the way of an accused if the case of applicant requires further probe.

8. Since the matter pertains to year 2006, therefore, trial Court is directed to proceed with the matter expeditiously with further direction that no un-necessarily adjournment shall be granted in favour of the applicant or prosecution.

9. Needless to mention here that the observations made herein above are tentative in nature and shall not affect the merits of the case.

The bail application stands disposed of in the above terms.

JUDGE.