

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

Cr. Bail Appl. No. S- 349 of 2015

DATE

ORDER WITH SIGNATURE OF JUDGE

29.2.2016

For hearing

Mr. Ghulam Asghar Mirbahar, Advocate for applicant
Mr. Shahid Shaikh, APG.

Applicant is booked in Crime No. 66 of 2012 registered at police station Daulatpur under Section 302, 337-H(ii), 114 and 34 PPC on 11.8.2012 at 1200 hours. The allegation against him is that he along with co-accused duly armed with weapons caused murder of son of complainant namely Ali Hyder. The main role of causing firearm injury to the deceased is attributed to co-accused Muneer who was allegedly armed with pistol. Against present applicant the allegation is that he caused butt blows on the chest of deceased. Learned counsel has argued that the role attributed against the applicant is not borne out of the medical evidence as the post mortem report shows that deceased had sustained only one firearm injury and there were no marks of butt blows on his chest. He further states that the applicant is behind bars since 15.3.2014 and yet no progress in the trial has been made. He further informs that even during investigation no incriminating weapon was recovered from him. The allegation that the applicant was armed with rifle at the time of incident is not established from the investigation in view of non recovery of any weapon from him.

Counsel for complainant has chosen to remain absent. Learned APG on the other hand has opposed the grant of bail. He states that the applicant is nominated in the FIR with specific role that he was armed with rifle and in furtherance of common intention caused murder of the deceased.

I have seen the contents of FIR and other material available before me. The role attributed against the applicant is that he caused butt blows on the person of deceased. However, the post mortem report does not reveal any marks of such blows on the chest of deceased. This fact has been confirmed by learned APG. Learned APG has also conceded that during investigation no incriminating weapon was recovered from him. The presence of the applicant at the spot and his sharing common intention with the main accused is therefore a question which requires further inquiry. The kind of allegation leveled against the applicant in the FIR in my view does not make his case fall within the prohibitory clause of Section 497(1) Cr.P.C. The applicant is behind the bars since 15.3.2014 and I have been informed that no progress in the trial has been made yet.

Accordingly, the applicant is granted bail subject to his furnishing a solvent surety in the sum of Rs.2,00,000/- (Two lacs) and PR bond in the like amount to the satisfaction of trial court. The trial court is also directed to expedite the trial and shall record the evidence of the witnesses and conclude it preferably within a period of six months.

JUDGE

