

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Bail Application No.S-628 of 2022

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**DATE**                      **ORDER WITH SIGNATURE OF JUDGE(S)**

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1. For orders on office objections.
2. For hearing of main case.

22.08.2022.

Applicant is present on ad-interim pre-arrest bail.

Mr. Mir Shakir Ali Talpur, Advocate holds brief for complainant's Counsel

Mr. Wali Muhammad Khoso, Advocate for applicant.

Mr. Shawak Rathore, Deputy Prosecutor General.

O R D E R

**MUHAMMAD IQBAL KALHORO, J-** Allegedly applicant duly armed with a pistol alongwith co-accused, since exonerated under Section 169 Cr.P.C., accosted complainant party available at their lands in Husri District Hyderabad on 29.04.2021 at 1800 hours and fired straightly on deceased Zaman Hajano, a Hari of the complainant, injuring him seriously. He was taken to hospital at Hyderabad and died on 02.05.2021 leading to registration of present FIR.

2. Learned Counsel for the applicant while relying upon the case law reported as *2022 SCMR 624* has stated that applicant is innocent and has been falsely implicated in this case; there is a long-line of litigation between the parties and some of the criminal cases have been registered against the complainant party by accused with same allegations as being probed here. All the co-accused have been let off by the Police under Section 169 Cr.P.C; applicant was not present at the spot on the day of incident as confirmed by CDR. Re-investigation of the case on the application of mother of deceased is pending with the Additional Inspector General of Police, Hyderabad.

3. On the other hand, learned D.P.G has opposed bail so also learned Counsel holding brief on behalf of learned Counsel for the complainant placing on record a copy of re-investigation undertaken in compliance of an order of Sessions Court where mother of the deceased had filed an application for that purpose.

4. I have heard the parties and considered available material including case law cited at bar. In FIR the applicant has been assigned specific role of firing at the deceased who initially got injured was taken to hospital at Hyderabad and died on 02.05.2021. On the next day, the crime report was recorded, as such, there appears to be no un-explained delay in registration of the case against the applicant. The co-accused let off by the Police have not been assigned any specific role in the case and this is why when report under Section 173 Cr.P.C was submitted before the Magistrate, he took cognizance of the offence only against the applicant and not against the others. In re-investigation, ordered by learned Sessions Court, also only applicant has been found connected with the offence and that is duly supported by statements of witnesses recorded under Section 161 Cr.P.C and the medical evidence confirming death of the deceased as un-natural caused by firearm weapon. The ground of enmity in the face of direct allegations of causing death of a person by firing for seeking a relief of pre-arrest bail cannot be considered being beyond the scope of tentative assessment required to be made at bail stage. Relief of pre-arrest bail is extraordinary and it is meant for an accused implicated in the case on account of motives base and ulterior which is not the case here. I, therefore, find the applicant not entitled to the relief of pre-arrest bail. Accordingly, this application is dismissed and interim pre-arrest bail already granted to the applicant vide order dated 20.05.2022 is hereby recalled.

5. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE

Shahid