

Order sheet
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 81 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
31.01.2018	

For orders on office objection
For hearing

Syed Tariq Ahmed Shah, advocate along with applicant
Mr. Shahid Ahmed Shaikh, D.P.G.

OMAR SIAL, J.- Applicant Malik Akhtar Ali Awan has sought pre-arrest bail in Crime No. 01 of 2017 registered under Section 302, 504, 109 & 35 P.P.C. at Badin police station district Badin. Earlier his pre-arrest bail application was turned down by the learned Sessions Judge, Badin on 27.1.2017.

2. The FIR in the case has been registered by Imran Shah on 4-1-2017. He stated that he was not on good terms with one Asad Cheema. On 31-12-2016 the complainant and his brother Naseer Shah were present in Gloarchi when the Applicant came and said to Naseer (the complainant's brother) that he had been acquitted in the cases filed by the Applicant and they will now kill him. However, it appears that they did not kill him that day. On 3-1-2017, the complainant along with his brother Naseer and friend Habib went to court for some work. When they were returning they were waylaid by 6 persons. The complainant identified 5 of them however none of them was the Applicant. The accused persons proceeded to shoot at the brother of the complainant who subsequently died and such FIR was registered.

3. I have heard the learned counsel for the Applicant as well as the learned DPG. The complainant remained absent despite notice. My observations are as follows.

- i. No overt role or even presence is assigned to the present Applicant. It is alleged that he was the mastermind behind the shoot out and that it was upon his instigation and at his instructions Naseer Shah was killed by the co-accused. At the moment at least there seems to be no evidence that would establish the connection of the Applicant with the instant crime. His role, if any, can only be decided after evidence is led. Ulterior motive on the part of the complainant

cannot be conclusively ruled out at this stage. In the circumstances, the case of the Applicant requires further probe and falls within the ambit of section 497(2) Cr.P.C.

4. Above are the reasons for my short order of 31-1-2018 in terms of which the interim pre-arrest bail granted to the Applicant on 31-1-2017 was confirmed on the same terms and conditions.

JUDGE

karar_memon/PS*

