

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

Cr. B.A. No. S- 549 of 2016

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**DATED**                      **ORDER WITH SIGNATURE OF JUDGE**

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31.01.2018

For orders on office objection  
For hearing

Mr. Atlaf Hussain Chandio, advocate for applicant  
Mr. Shahid Ahmed Shaikh, D.P.G.

**OMAR SIAL, J.-** Applicant Dadlo Jatoi has sought pre-arrest bail in Crime No. 5 of 2014 registered under Section 302, 337-A(ii), 337-H(ii) and 34 P.P.C. at the Mehrab Rahu police station district Shaheed Benazirabad. Earlier his pre-arrest bail application was turned down by the learned 4<sup>th</sup> Additional Sessions Judge, Shaheed Benazirabad on 14-7-2015.

2. The F.I.R. in the case has been lodged by Tando Jatoi on 14-9-2014. He stated that on 7-9-2014, he along with some relatives which included his brother Raza Muhammad went to visit his uncle in a nearby village. At about 10:00 a.m. someone called out for his brother. Raza went out to see who it was. Soon there was some noise and the complainant party went out to see what it was. They saw Mir Hazar Khan Jatoi (with a pistol), the Applicant (with a double barrel gun), Muharram (with a Kalashnikov) standing outside. Mir Hazar Khan Jatoi fired at Raza Muhammad, which bullet hit him in his head. Accused Muharram Jatoi hit the complainant's nephew, Ghulam Shabbir with the butt of his Kalashnikov on his head. Upon the ensuing commotion, the nearby villagers approached and the accused ran away. Raza Muhammad subsequently died while Ghulam Shabbir was injured.

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

- i. No role, except presence and aerial firing, has been assigned to the Applicant. The shot which killed Raza Muhammad was inflicted by accused Mir Hazar Khan Jatoi whereas the injury to Ghulam Shabbir was assigned to Muharram Jatoi. Whether or not the Applicant shared a common intention with the accused Mir Hazar

Khan Jatoi to murder or with Muharram to injure Ghulam Shabbir will have to be decided after evidence is led in trial. There is an admitted enmity between the parties; in fact, the accused party has also lodged an F.I.R. being Crime No. 4 of 2014 for the same incident in which it is claimed that a boy named Nazir Jatoi belonging to the accused party was murdered by the complainant party. In these circumstances, throwing the net wide by the complainant cannot be conclusively ruled out at this stage. In view of the above facts and circumstances, the case of the Applicant falls within the ambit of section 497(2) Cr.P.C. and is thus one of further enquiry.

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 18-7-2016 was confirmed on the same terms and conditions.

JUDGE