

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

Cr. B.A. No. S- 823 of 2016

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| <b>DATED</b> | <b>ORDER WITH SIGNATURE OF JUDGE</b> |
| 06.02.2018   |                                      |

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For orders on office objection  
For hearing

Mr. Aijaz Shaikh, advocate along with applicant.  
Mr. Shahid Ahmed Shaikh, DPG

**OMAR SIAL, J.**- Applicant Noor Muhammad has sought pre-arrest bail in Crime No. 21 of 2016 registered at Chalghari police station, Hyderabad under Section 302, 324, 114, 504 & 34 PPC. Earlier, his bail application was turned down by the learned VIth Additional Sessions Judge, Hyderabad on 29.09.2016.

2. The story narrated in the abovementioned FIR lodged by complainant Faiz Muhammad on 16.8.2016, is that he is tractor driver of Haji Umed Ali Samoon while his brother Alam is Manager of above named Zamindar and that Bilal, Shabir and Manzoor Ahmed were farmers on his lands. On the day of incident they were busy in the cultivation when at about 10:00 a.m. accused Manthar (armed with a rifle), Nizamuddin and Haider (both armed with double barrel guns), Bux Ali (armed with single barrel gun) and applicant Noor Muhammad (apparently unarmed) while abusing came and on the instigation of applicant Noor Muhammad co-accused Manthar fired at Alam (the brother of the complainant) who fell down on the ground. The other assailants also fired at them upon which they hid themselves in the watercourse. Accused Nizamuddin then fired at Bilal which hit him on his right thigh who also fell down. The complainant party screamed which attracted persons who were working on adjacent lands, hence the assailants left the scene of incident. Alam subsequently died.

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

The present Applicant is assigned with the role of instigation. No overt role is assigned to him, in fact neither is it said that he was armed. Whether or not the present Applicant was present at the scene of incidence and whether or not he shared a common intention with the co-accused is not clear at this stage and vicarious liability of the Applicant will have to be decided after evidence is led. Further, No motive is alleged for the accused to kill Alam. The complainant miraculously escaping unscratched when according to him all the accused fired at him also appears odd at this preliminary stage. Throwing the net wide by the complainant cannot be conclusively ruled out at this stage. In the circumstances the case of the Applicant is one of further enquiry and falls within the ambit of section 497(2) Cr.P.C.

For the above reasons, the interim pre-arrest bail already granted to applicant on 3.10.2016 is confirmed on the same terms and conditions.

JUDGE

karar\_hussain /PS\*