

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

Cr. B.A. No. S- 836 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
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1.2.2018

For orders on office objection
For hearing

Mr. Ashfaq Ahmed A. Solangi, advocate for applicant
Mr. Mian Taj Muhammad Keerio, advocate for complainant
Mr. Shahzado Saleem Nahiyoon, D.P.G.

OMAR SIAL, J.- Applicant Eidan has sought post-arrest bail in Crime No. 16 of 2017 registered under Section 302, 147, 148, 149 and 504 P.P.C at the Jhangara police station in district Jamshoro. Earlier his post-arrest bail application was turned down by the learned Additional Sessions Judge, Sehwan on 28.8.2017.

2. The F.I.R. in the case was registered by complainant Bahadur on 6.8.2017. He reported that they are not on good terms with accused Dilsher Rind due to a dispute over demarcation of land. On the day of the incident, the son of the complainant, namely, Ghulam Sarwar, and his nephews named Ghulam Mustafa and Deedar were coming towards Jhangara when at about 7:30 a.m. they were intercepted by accused Dilsher (armed with a repeater gun), Dilbar, Farooque, Hakim, Wakeel (armed with a gun), Meer Hassan (armed with a rifle) and Eidan (the current Applicant). The accused party abused the complainant party upon which the complainant's son Ghulam Sarwar asked them not to use abusive language. This annoyed accused Meer Hassan who instigated his companions to kill the complainant party. On this instigation, accused Dilsher made a straight fire upon Ghulam Sarwar which resulted in his death.

3. I have heard the learned counsel for the Applicant, complainant as well as the learned DPG. My observations are as follows:-

- i. No overt role but mere presence is assigned to the Applicant. In the background of admitted bad relations with the accused party, throwing the net wide by the complainant cannot be conclusively ruled out at this stage. Whether or not the Applicant was present on the scene and whether or not he shared a common intention with the accused who is alleged to have shot Ghulam Sarwar to make him vicariously liable, in the circumstances of the case, will have to

be decided after evidence is recorded in trial. At this preliminary stage it appears that the case of the Applicant falls within the ambit of section 497(2) Cr.P.C. and thus one of further inquiry.

4. For the foregoing reasons, the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (One hundred thousand only) and a P.R. Bond in the like amount to the satisfaction of the trial court.

JUDGE

karar_memon/PS*