

THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD.

Crl. Bail Appln: No. S-179 OF 2018.

Aamir Shahzad & Aamir Qazi.Applicant.

Versus.

The State.Respondents.

Mr. Nisar Ahmed Durrani, Advocate for Applicant.

Mr. Shahid Ahmed Shaikh, DPG.

Barrister Taha Rehman Jatoui, Advocate for the complainant.

Date of hearing and order 04.06.2018.

O R D E R

IRSHAD ALI SHAH, J. It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly and in prosecution with their object committed fired at complainant party with intention to commit their murder as a result whereof Shahid alias Buland died after sustaining fire short injuries. For that the present case was registered.

2. The applicant sought for his release on bail on point of delay in conclusion of trial by filing such application, which was dismissed by the learned trial Court and he now by way of instant application under Section 497 Cr.P.C. has sought for his release on bail pending trial.

3. It is contended by learned counsel for the applicant that he being innocent has been involved in this case falsely by the complainant party, the delay in conclusion of trial is not attributed to the applicant as such he is entitled to be released on bail, as none is to be kept in custody for indefinite period. By contending so he sought for release of the applicant on bail. In support of his contention, he relied upon the case of **Jameel Raza alias Jeelu v. The State**, which is reported as **2016 SCMR 1360**, case of **Muhammad Ehsan v. The State**, which is

reported as **2017 P.Cr.LJ 1250** and case of **Muhammad Riaz & another v. The State**, which is reported as **2016 PCr.LJ 1206**.

4. Learned counsel for the complainant has opposed to grant of bail to the applicant by contending that he is hardened criminal and has defeated the trial by seeking adjournments for one or other ground. In support of his contention, he relied upon the case of **Sh. Adnan Naseem V. The State**, which is reported as **2017 MLD 962**.

5. In rebuttal to above, it was stated by learned counsel for the applicant that the applicant has already been acquitted in all the cases pending against him and applicant has sought adjournment in the present case only for three dates of hearing, as such delay in disposal of case could not be attributed to him as a whole.

6. Learned DPG has supported the impugned order.

7. I have considered the above arguments and perused the record.

8. The specific role of committing death of Shahid alias Buland by causing him fire shot injuries is attributed to the present applicant in that situation it would be premature to say that he being innocent has been involved in this case falsely by the complainant party. Admittedly, the applicant after committing the present incident preferred to go in absconsion for sufficient time without any plausible explanation and then surrendered before the learned trial Court to face trial, apparently for the reason that coercive methods for his arrest were adopted by the learned trial Court. Before learned trial Court, the applicant failed to engage his counsel for sufficient time perhaps with a view to defeat the trial of the present case. At trial, the applicant defeated the proceedings of the case at least three times. In that situation, the applicant could not be ordered to be released on bail on the point of delay in disposal of the

case on the basis of arithmetical calculation, as he himself is appearing to be instrumental in such delay.

9. The case law, which is relied upon by the learned counsel for the applicant is on distinguishable facts and circumstances. In case of **Jameel Raza** (Supra), the delay in disposal of the case was not determined by Honourable Lahore High Court. In that context, the Honourable Supreme Court of Pakistan set aside the order of Honourable Lahore Court with a direction to pass the same afresh. In the instant case no such controversy is involved. In case of **Muhammad Ehsan** and **Muhammad Riaz** (Supra), the accused were not found responsible for delay in conclusion of the trial and for this reason they were admitted to bail. In the instant case the applicant is found responsible in delay in conclusion of the trial, as such he is not found entitled to be ordered to be released on bail on point of delay in disposal of the case.

10. In view of the facts and reasons, the instant bail application is dismissed.

J U D G E

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