

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

**Criminal Bail Application No.S-224 of 2019.**

Bhooral alias Bhooro ----- Applicant.

Vs.

The State ----- Respondent

Date of Decision: 24.06.2019

Syed Shafiq Ahmed Shah, advocate for applicant.  
Ms. Safa Hisbani, Assistant Prosecutor General, Sindh.  
Mr. Muhammad Yousuf Kalhoro, advocate for complainant.

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**ORDER**

**IRSHAD ALI SHAH, J:** - It is alleged that the applicant with rest of the culprits after having formed with unlawful assembly and in prosecution of their common object not only committed Qatl-e-amd of Muhammad Aslam by causing him fire shot injuries but also caused fire shot injury to P.W Muhammad Sadiq Shar (passerby) with intention to commit his murder, for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned Additional Sessions Judge, Matiari has sought for the same from this court by way of instant bail application u/S 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party in order to satisfy their old enmity with him. It is the second FIR of the incident which too has been lodged with delay of 20 days and no specific role even otherwise in commission of incident is attributed to the applicant. By contending so, he sought for post arrest bail for the applicant on point of further inquiry.

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to the grant of pre-arrest bail to the applicant by contending that he is vicariously liable for the commission of incident.

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

6. Admittedly, the instant FIR is second in its series. First one has been lodged by Zahoor Ahmed Brohi. Be that as it may, the instant FIR has been lodged with a delay of about 20 days. The specific role of committing death of deceased Muhammad Aslam by causing him fire shot injuries is attributed to co-accused Ahmed Khan, Talib, Sher Ali and Deval @ Bero. The role attributed to the applicant in commission of incident apparently is only to the extent of his availability at the place of incident. Parties it is said are already disputed. In that situation the vicarious liability on the part of applicant is calling for further inquiry.

7. In case of Subeh Sadiq @ Saabo alias Kalu v. The State and others (2011 SCMR 1543) it has been held by Honourable Apex Court that :

*----S. 497(2)---Penal Code (XLV of 1860), Ss. 302/109/148/149---Qatl-e-amd, abetment and rioting armed with deadly weapons---Bail, grant of---Case of further inquiry---Previous enmity---False implication---Investigating Officer found that accused was merely present at the scene of crime at relevant time---Accused was neither armed on the occasion of murder nor he caused any injury to any person and there existed pitched enmity between parties based upon previous murder---Effect---Possibility could not safely be ruled out of consideration regarding spreading the net wide by complainant party so as to falsely entangle accused in the criminal case---Investigation of the case regarding accused had already been finalized and his physical custody was not required at such stage for the purposes of investigation---Case against accused was one of further inquiry into his guilt within the purview of S. 497(2), Cr.P.C.---Bail was allowed.*

8. In view of above, the applicant is admitted to post arrest bail subject to his furnishing surety in the sum of Rs.2,00,000/- and PR bond in the like amount to the satisfaction of learned trial court.

9. The instant bail application is disposed of in above terms.

**JUDGE**