Order Sheet IN THE HIGH COURT OF SINDH AT KARACHI Cr. Bail Application No. 773 of 2019

Date Order with Signature of Judge

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FOR HEARING OF BAIL APPLICATION

<u>Date of short order:</u> <u>10.07.2019.</u>

Applicant Fakhar-e-Azam alias Fakhru through Mr. Tajammul Lodhi, advocate alongwith Mr. Zulfiqar Ali Shaikh, advocates. Complainant Zulfiqar Ali Malah through Mr. Liaquat Ali, advocate.

Mr. Sagheer Ahmed Abbasi, APG.

ORDER

FAHIM AHMED SIDDIQUI, J:- The applicant is seeking his release on post arrest bail in a case registered against in a case FIR No. 16 of 2019 at PS Sahil, Karachi under Sections 302/34 PPC. Prior to raising this plea of post arrest bail, a similar plea was declined by the learned Additional Sessions Judge-III, Karachi South through the order dated 15-05-2019, which is impugned here.

- 2. The learned advocate for the applicant as well as the complainant and the learned Prosecutor argued the matter at length. After considering their submissions and consulting the available record, I have observed as under:
 - (a) The allegations against the applicant is that there was a quarrel between the son of the complainant namely Amir Ali and the applicant and other co-accused and the applicant threatened the deceased, whereafter the son of the complainant did not come to the house and subsequently his dead body was found from Sahil Samandar, Sahil Avenue.
 - (b) There is delay in lodging the FIR of 11 days and initially report in "A" Class was submitted, which was approved by the SSP, Investigation-I, South Zone, Karachi vide letter dated 27.03.2019.
 - (c) There was no eye witness of the incident and the applicant is not arrested on the spot and he was subsequently arrested on the statements recorded under Section 161 Cr.P.C. of Faisal, the

brother the deceased and Saeed Ahmed, cousin of the deceased.

- (f) The applicant is continuously in custody since his arrest and no one can be detained only on suspicion.
- 3. In view of the above observations, I am of considered opinion that a case of bail has been made out. Hence, the applicant is admitted to bail subject to furnishing a solvent surety in the sum of Rs.2,00,000/- (Rupees Two Lacs) only and P.R. bond in the like amount up to the entire satisfaction of the trial Court through a short order dated 10-07-2019 and these are the reasons for the same.
- 4. Before parting, I would like to make it clear that if the applicant after getting bail will not appear before the trial Court and the trial Court is satisfied that the applicant becomes absconder and fugitive to law, then the trial Court is fully competent to take every action against the applicant and his surety including cancellation of bail without making a reference to this Court.
- 5. I would like to make it clear that the above observations are purely tentative in nature, and the same are only meant for the purpose of disposal of instant bail application and would have no bearing on either party's case during trial.

Dated:	JUDGE
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