

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

Criminal Bail Application No.S-1192 of 2018
[Rashid v. The State]

Date of hearing: 12.04.2019.

Date of decision: 12.04.2019.

Applicant: Rashid through Mir Shakir Ali Talpur,
advocate.

Respondent: The State through Mr. Shahid Ahmed
Shaikh, Deputy Prosecutor General, Sindh.

ORDER.

Fahim Ahmed Siddiqui, J: By preferring the instant bail application, the applicant is seeking his release on post arrest bail in a case registered against him at PS Hatri vide FIR No. 145 of 2012 under Sections 324 & 34 PPC.

2. I have heard the arguments advanced from either side and perused the available record as well as case laws cited before me. After getting enlightened by the valued submissions made before me and scanning the available record, I have observed as under:

- (a) The allegations against the applicant is that he along with his brother Arshad made straight fires upon the complainant namely Danish and his friend Tahir while returning on motorcycle from a shrine but they both remained save by falling on the ground and crawling in the nearby bushes.

- (b) The enmity is admitted within the body of FIR, according to which four months ago brother of applicant Arshad alias Kala Qureshi and other persons caused murder of the brother of complainant namely Imran and cousin Shakir they were pressurizing the complainant to withdraw from the criminal case in respect of murder of complainant's brother.
- (c) On account of admitted animosity, false involvement cannot be ruled out.
- (d) In the instant case, the applicant and his brother Arshad were shown armed with pistols and riding on the motorbike and incident is shown to have taken place in a moor but surprisingly the nominated accused did not try to repeat fire and allowed them to stand their bike and after falling on ground let them scrawl in the nearby bushes.
- (e) In fact it is a case of ineffective firing and place of incident is situated at a distance of 5/6 km but the FIR was lodged with a delay of 2 hours and from the FIR it transpires that the complainant lodged FIR after consulting with his brother Nadim and cousin Abid.
- (f) The applicant and complainant party are already on loggerhead and there is no likelihood that the applicant will win over the important prosecution witness, as such, there is no question of tempering with the prosecution evidence.

3. In view of the above observation, I am confident that a case of bail has been made out in favour of the applicant, as such, he is entitled to post arrest bail in the instant case.

4. The ultimate outcome of the above discussion is that since the applicant is entitled to bail; therefore, the applicant was admitted to bail subject of furnishing a surety of Rs. 50,000/- [Rupees fifty thousand] only and PR bond in the like amount to the entire satisfaction of trial Court through my short order dated 12.04.2019 and these are the reasons for the same.

5. 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.

JUDGE

Dated 16.04.2019.

Abdullah Channa/PS