

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

Cr.B.A.No.S- 420 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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23.08.2018.

Ms. Samina Ajmaree, Advocate for applicant.
Ms. Safa Hisbani, A.P.G for the State.
Mr. Shoukat Ali Pathan, advocate for complainant.

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Irshad Ali Shah J:- It is alleged that the applicant with rest of the culprits in furtherance of their common intention fired at complainant Ali Dino with intention to commit his murder as a result of such firing his son Liaquat Ali, aged about nine years died and his wife Mst. Aameena and daughter baby Zubeda sustained fire shot injuries for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned 9th Additional Sessions Judge, Hyderabad has sought for the same from this court by way of instant 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; there is delay of one day in lodgment of FIR and applicant is in custody for more than two years. By contending so, she sought for release of the applicant on bail on the point of further inquiry and delay in trial. In support of her contention she has relied upon case of *Anwar Ali vs the State (2016 P.Cr.L.J 1514)* and case of

Irshad Ali and another vs Muhammad Shahid and another (2015 P.Cr.L.J 158).

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicant by contending that he has actively participated in the commission of incident by causing fire-shot injuries to the deceased and injured and delay in conclusion of trial could not attributed to the prosecution.

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

6. The applicant is named in FIR with specific allegation that he with the rest of the culprits in furtherance of their common intention being armed with deadly weapons went over to the complainant party fired at the complainant with intention to commit his murder, as a result of such firing the son of the complainant died while wife and daughter of the complainant sustained fire shot injuries. In that situation, it would be premature to say that the applicant being innocent has been falsely involved in this case by the complainant. The delay of one day in lodgment of FIR is there but same could not be resolved by this court in favour of the applicant at this stage. As per progress report which is furnished by the learned trial court when the case was proceeding co-accused Punhoon joined the trial, on his joining the trial, the charge was amended, thereafter, the Presiding Officer of the Court was transferred and now the examination-in-chief of complainant and his two witnesses have been recorded, but their cross examination is reserved for want of case property. In that

situation, delay in trial could hardly be attributed to the complainant and / or prosecution. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged.

7. The case law which is relied upon by the learned counsel for the applicant is on distinguishable facts and circumstances. In case of ***Anwar Ali (supra)*** the main reason for admitting to accused to bail was that two of the accused were already admitted to bail by learned trial court. In case of ***Irshad Ali and others (supra)***, in appeal it was concluded by Hon'ble High Court of Sindh that the heinousness of crime is not sufficient to convict the accused. In the instant case no conviction is recorded against the applicant.

8. Consequent upon above discussion, the instant bail application is dismissed.

JUDGE.

Ahmed/Pa,