

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

Cr.B.A.No.S-492 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

23.08.2018.

Mr. Iftikhar A. Gohar, Advocate for applicant.
Ms. Safa Hisbani, A.P.G for the State.

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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 committed Qatl-i-Amd of Mukhtiar and Faizan by causing them fire-shot injuries for that the present case registered.

2. The applicant on having been refused post arrest bail by learned IInd 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 in order to satisfy their enmity with him and the applicant is in custody since seventeen months, without active progress in his case and the time of post mortem over the deceased did not tally with the time of the death as is disclosed in FIR. By contending so, he sought for release of the applicant on bail, on the point of further inquiry and delay in trial. In support of his contentions he has relied upon case of *Ghulam Mustafa vs the State (2011 MLD 356 Karachi)*.

4. Learned A.P.G. for the State has 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 upon the deceased.

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 deceased and committed their murder by causing them 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 party. The time of the death of the deceased as is disclosed in post mortem report may be inconsistent to the time of the death of the deceased as is disclosed in FIR but such inconsistency could not be resolved by this court at this stage. It is settled by now that the deeper appreciation of the facts and circumstances is not called for while deciding the bail application. The applicant may be in custody for about seventeen months, but such period is not enough to release the applicant on bail on point of delay in trial in case like the present one. 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 learned counsel for the applicant is on distinguishable facts and circumstances. In that case the accused was attributed no role in commission of incident. In the

instant case the applicant obviously is attributed active role of causing fires shot injuries to the deceased.

8. In view of the facts and reasons discussed above, it could be concluded safely that the applicant is not found entitled to be released on bail. Consequently, the instant application is dismissed.

JUDGE.

Ahmed/Pa,