

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-1110 of 2018

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case.

02.09.2019.

Mr. Mushtaque Ali Taggar, advocate for applicant.
Ms. Safa Hisbani, A.P.G.
Syed Tarique Ahmed Shah, advocate a/w complainant.

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Irshad Ali Shah J;- It is alleged that the applicant with rest of the culprits after having been formed an un-lawful assembly in in prosecution of their common object committed Qatl-e-amd of Darbar Ali Shah by causing him fire shot and dagger injuries for that the present case was registered.

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

3. It is contended by the 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; the applicant at the time of incident was in custody and the role which is attributed to him in commission of incident is only to the extent of abetment / instigation. By contending so, he sought for release of the applicant on bail on point of further enquiry. In support of his contention he relied upon case of Subeh Sadiq alias Saabo alias Kalu vs The State and others (2011 SCMR 1543).

4. It is contended by learned A.P.G for the State and learned counsel for the complainant that applicant is hardened criminal of the area; his attitude towards jail authorities is very harsh and he together with his brothers who are still absconding have been issuing threats of murder to the complainant party. By contending so, they sought for dismissal of the instant bail application of the applicant as he is involved in commission of incident, on point of vicarious liability.

5. In rebuttal to above, it is contended by learned counsel for the applicant that the applicant has nothing to do with the role which his brothers allegedly are playing and the only case in which the applicant was in custody has come to an end with acquittal of the applicant. By contending so, he created an impression that the applicant is not hardened criminal of the area, but victim of enmity.

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

7. Admittedly, at the time of incident the applicant was found to be in custody and the role attributed to him in commission of incident is only to the extent of abetment / instigation. The parties are already disputed. In that situation, the guilt of the applicant, on point of vicarious liability obviously is calling for further enquiry.

8. In view of above, the applicant is admitted to bail subject to his furnishing surety in sum of Rs.300,000/-and PR bond in the like amount to the satisfaction of learned trial court.

9. The instant application is disposed of accordingly.

JUDGE