

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-343 of 2018

DATE	ORDER WITH SIGNATURE OF JUDGE
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12.06.2018.

Mr. Riaz Mustafa Arain, advocate for applicant.
Ms. Ramshan Oadh, A.P.G.
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Irshad Ali Shah J;- Through captioned bail application, the applicant Sardar seeks post arrest bail in crime No.372/2017, under Sections 398, 401. Earlier his bail plea was declined by the learned 2nd Additional Sessions Judge Badin vide order dated 28.04.2016.

2. Learned counsel for applicant submits that applicant is innocent and has falsely been implicated in this case; that all the witnesses are police officials and there is no likely hood of tampering with evidence, that from mere assembly of 3 or 4 persons at a place, the inference cannot be drawn that they had assembled for committing any offence, as such, the intention of the accused is yet to be determined at the trial stage as apparently no overt act is alleged against the accused towards the commission of the alleged offence, that the learned trial court has merely dismissed the bail application on the ground that the applicant has remained absconder, but has not taken into consideration the merits of the case, that neither previous convict nor hardened criminal and is not likely to abscond or temper with the prosecution evidence; that applicant is ready to furnish solvent surety to the satisfaction of this Court.

3. On the other hand, learned A.P.G for State has opposed the grant of bail to the applicant.

4. Having heard learned Counsel for applicant and A.P.G and perused the relevant record carefully.

5. From the perusal of record it appears that all the witnesses are police official and no any independent person cited by the police to act as a witness the incident. Further, section applied in the FIR does not fall within the ambit of prohibitory clause of section 497 Cr.P.C and in such like cases the grant of bail is a rule. Moreover, the bail plea was declined by the trial court on the base that applicant was remained absconder, which requires probe; however, the case is pending trial

role of causing fire arm injuries to deceased Ali Muhammad is attributed to the co-accused; that from the perusal of record it also appears that name of the applicant does not transpire in the FIR; that from the perusal of record it further transpires that the name of the applicant has been disclosed by the PWs in their 161 Cr.P.C statement; that the applicant is in custody; that investigation of this case has already been completed; that challan has been submitted before the trial court hence, physical custody of the applicant is not required at this stage for the purpose of investigation. It is trite that the concession of bail ought not to be withheld by way of premature punishment.

8. For what has been discussed above, I am of the opinion that applicant/accused has made out case of further inquiry, therefore he is admitted to bail subject to his furnishing solvent surety in the sum of Rs.500,000/=(one lac) and P.R bond in the like amount to the satisfaction of trial Court vide short order dated 17.4.2017. These are the reasons for the same.

9. Whatever stated above is tentative in nature and will not influence the mind of the learned trial court at the trial while deciding the case on merits.

JUDGE