

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 639 of 2020  
&  
Criminal Bail Application No. 640 of 2020

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| Date | Order with Signature of the Judge |
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For hearing of bail application.

Heard on : 20.05.2020  
For Applicant : Mr. Irfan Hassan, Advocate.  
For State : Ms. Amna Ansari, Addl.P.G. alongwith  
Complainants namely Muhammad Asif  
and SI Irshad Ahmed Leghari; ASI  
Bahadur Shah, PS Itihad Town, Karachi.

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**Kausar Sultana Hussain, J.**:- On dismissal of two bail Applications by the learned trial Court, vide joint/one order dated 14.03.2020 in Sessions Cases No. (1) 1184 of 2019 in case FIR No. 70 of 2019, under Sections 302, 109/34 PPC and (2) 1183 of 2019 in case FIR No. 77 of 2019, under Section 23(i)-A, S.A.A, 2013, both registered at PS Ittehad Town, Karachi, the applicant namely Mukarram Ali son of Ashfaq Ali has approached this Court, by filing instant two bail applications under Section 497 Cr.P.C, for post-arrest bail in above FIRs.

2. Succinct prosecution story as narrated in two FIRs No. 70 of 2019 and 77 of 2019 are that on 07.04.2019 at 0015 hours, complainant Muhammad Asif lodged an F.I.R No.70 of 2019 at Police Station Ittehad Town, Karachi, stating therein that his brother namely Rashid Ali son of Munsib Ali aged about 40 years was residing with his family at House No.384, Block-A near Toheed Masjid, Qaimkhani Colony, Baldia Town, Karachi. On 06.04.2019 at about 0030 hours, his sister-in-law (Bhabi) namely Noureen in connivance with Syed Mukarram Ali son of Ashfaq Ali with intent to fulfil her illicit relations had committed murder of her husband namely Rashid Ali. He received such information about the incident through cell phone call received from his sister-in-law Noureen.

On such information he reached at the place of incident, where he saw that his brother was in serious condition, wherefrom, he shifted him to Abbasi Shaheed Hospital, but he succumbed to his fire-shot injury on the way. After completion all the legal formalities and offering funeral prayer of deceased Rashid Ali, he came to police Station for registration of FIR. After registration of FIR No. 70 of 2019, police succeeded to arrest accused Mukharram Ali and recovered crime weapon i.e. one 30 bore pistol used in murder of Rashid Ali alongwith magazine containing 2 alive bullets from his possession, hence FIR No.77/2019 was also registered under Section 23 (i) A of Sindh Arms Act, 2013.

3. I have heard the learned counsel for the applicant / accused and Adl. P.G and have perused the material available on record.

4. The learned counsel for the applicant / accused has argued that the applicant / accused is innocent and has falsely been involved in these cases. Per learned counsel there is a delay of 24 hours in lodging the FIR No.70/2019 without any plausible explanation; that nothing has been recovered from the possession or pointation of the applicant / accused and the alleged recovery of pistol (if any) has been foisted upon him; that complainant himself is not a witness of the alleged recovery and so also no any private witness has been associated in the memo of recovery; that allegedly recovered crime weapon had not been sealed at the spot and such fact also adduced in the cross-examination; that story of complainant is out of thought, which does not attract to a prudent mind; that the learned trial Court did not pass speaking order neither discuss the case on the points raised in the bail applications; that from the perusal of evidence of PWs adduced before the learned trial Court, it revealed that the complainant as well as other PWs have not alleged any word about the commission of the offence against the applicant / accused as such case is doubtful and requires further inquiry; that due to COVID-2019 there is no possibility of production of accused before the

learned trial Court for recording statement of accused under Section 342 Cr.P.C and he is behind the bars for about one year from the date of his arrest and on this ground too, the applicant / accused is entitled for concession of bail; that in the instant murder case three accused were allegedly arrested who are allegedly involved, however, accused Muhammad Juman has been granted bail, as such on the rule of consistency present applicant / accused is entitled for concession of bail, hence both the matters require further inquiry. He prayed for grant of two bail applications.

5. Conversely, the learned Addl.P.G opposed the plea of the applicant / accused and emphasized on the point that the FIR was lodged just after completion of funeral ceremony of deceased, therefore, there is no ground for delay; that the applicant / accused is nominated accused of the FIRs; that on his pointation, the crime weapon was recovered; that two locality fellow of deceased namely Ghufraan and Waqar Anjum while recording their statements under Section 161 Cr.PC, disclosed that they saw the applicant / accused while coming from the home of the victim just after his murder; that as per FSL Report, the empty picked up by the I.O from the place of incident was fired from the pistol recovered from the possession of the applicant / accused; that the role of co-accused Jumman, who is on bail is quite different from the role of applicant / accused as from the facts of the case it revealed that the applicant / accused before the incident took the pistol from co-accused Jumman, (who at that time was working somewhere as Security Guard), on the pretext that he would make aerial fires on the marriage occasion of one of his friend. Lastly, the learned Addl: P.G, Sindh argued that CDR of the applicant / accused shows his presence at the spot at the relevant time of incident. She prayed for dismissal of both the bail applications of the applicant / accused and further pointed out that evidence of all prosecution witnesses has been completed and now matter is fixed for

recording statement of the applicant / accused under Section 342 Cr.P.C.

6. After hearing lengthy arguments of both the side and perusal of record, it revealed that applicant / accused is a nominated accused in the FIR No.70 of 2019 under Section 302, 109/34 PPC and after his arrest the crime weapon was recovered from his possession. Per FSL report empty recovered from the place of incident had been matched from the pistol recovered from his possession as it was fired from it. The CDR shows the presence of the applicant / accused at the place of incident at the time of murder. Evidence of all the prosecution witnesses has been recorded and now statement of applicant / accused is to be recorded, therefore, I am of the view that sufficient evidence / material is available on record against the applicant / accused, which prima facie shows his involvement in the instant crime. Therefore, on this verge of the cases, release of the applicant / accused may hamper the instant matters, if he become fugitive to law. Since, the case of the applicant / accused is at the final stage therefore, I do not want to make further discussion of the case on merits, hence the bail applications of applicant / accused are dismissed.

7. Needless to mention here that observations, if any, made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant / accused on merits.

8. Above are the reasons for short order dated 20.05.2020.

J U D G E