

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr.B.A.No.S-825 of 2020

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

12.10.2019.

Mian Taj Muhammad Keerio, Advocate for applicant.
Mr. Shahid Ahmed Shaikh, D.P.G for the State.
Mr. Haji Khan Hingorjo, Advocate for the complainant.

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Irshad Ali Shah J;- It is alleged that the applicant and other in furtherance of their common intention have committed Qatl-i-Amd of Tikamdas by cutting his neck with some sharp cutting weapon, for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned IInd Additional Sessions Judge, Sanghar has sought for the same from this court by way of instant application under section 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 its dispute with him over return of money, in first instance the incident was reported in Roznamcha, it is not containing the name of applicant, the FIR of the incident has been lodged with delay of about one day; none has seen the applicant committing the alleged incident, therefore, the applicant is entitled to be released on bail on point of further enquiry. In support of his

contention he relied upon cases of ***Yaroo vs The State (2004 SCMR 864) and Nooruddin and another vs The State (2005 MLD 1267 Karachi)***.

4. Learned D.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicant by contending that the applicant has committed murder of the deceased in a very brutal manner and on arrest from him has been secured the cloth and ring of the deceased. In support of their contentions they relied upon cases of ***Noor Alam vs The State (2018 P.Cr.L.J Note 134 Sindh) and Zaheer alias Fauji vs The State (2002 P.Cr.L.J 1114 Lahore)***.

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

6. The name of the applicant is appearing in the FIR with specific allegation that he with other soon after incident was found coming out from the place of incident, such allegation takes support from the CCTV Camera recording. On arrest from the applicant has not only been secured the pistol which he allegedly was having at the time of incident but cloth and ring of the deceased. Someone might not have seen the applicant committing the alleged incident but the evidence which is collected by the prosecution against the applicant prima facie connect him with the commission of incident, therefore, it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party. The Roznamcha entry which was recorded by the police was only to the extent of intimation, it was on telephone, therefore, non disclosure of the name of the applicant

therein hardly absolve the applicant of the incident. No doubt FIR of the incident has been lodged with delay of about one day, but such delay is explained plausibly in FIR itself. The delay in lodgment of FIR even otherwise, could not be resolved by this Court at this stage. 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 case of *Yaroo* (supra), the accused was admitted to bail mainly for the reason that he was in jail for more than one year. In the instant case the applicant is in jail for few months only. In case of *Nooruddin and others* (supra), the entry in Roznamcha was lodged by the complainant himself and the accused took plea of alibi, it was in these circumstance the accused was admitted to bail. In the instant matter, the entry was recorded by the police on intimation furnished to them on telephone and no plea of alibi is taken by the applicant.

8. In view of the facts and reason discussed above, it could be concluded safely that the applicant is not found entitled to be released on bail. Consequently, his bail application is dismissed with direction to learned trial Court to expedite disposal of the case preferably within three months after receipt of copy of this order.

9. Needless to state, that the observation recorded above is tentative in nature, same may not affect the case of either of the party at trial.

JUDGE