

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.  
Cr.B.A.No.S-454 of 2020

---

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

---

For orders on office objection.  
For hearing of main case.

26.10.2020.

Mr. Badal Gahoti, Advocate for applicants.  
Ms. Safa Hisbani, A.P.G for the State.  
Mr. Tarique Mahboob, Advocate for the  
complainant.

====

**Irshad Ali Shah J:-** It is alleged that the applicants with rest of the culprits after having been formed an unlawful assembly and in prosecution of their common object committed Qatl-i-Amd of Muhammad Hassan by causing hatchets injuries and then attempted to cause disappearance of evidence by burying his dead body in watercourse in order to save themselves from legal consequences, for that they were booked and reported upon by the police.

2. The applicants on having been refused post arrest bail by learned Additional Sessions Judge, Shahdadpur have 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 applicants that the applicants being innocent have been involved in this case falsely by the complainant party; there is delay of about 38 hours in lodgment of FIR and the applicants are in custody since one year; co-accused Mula Bux alias Sono has already been let-off by the police and availability of the complainant and his witnesses at place of incident as per CDR reports is doubtful. By contending so, he sought for release of the applicants on bail on the point of further inquiry.

4. Learned A.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 delay in lodgment of FIR has been explained plausibly, the applicants have actively participated in the commission of incident by causing hatchets injuries to the deceased; on arrest from them has been secured the hatchets allegedly used by them in commission of incident. In support of their contentions they have relied upon cases of *Mushtaque Ahmed vs The State (2013 YLR 1158)* and *Muhammad Imran vs The State and others (2016 SCMR 1401)*.

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

6. The names of the applicants are appearing in the FIR with specific allegation that they with the rest of the culprits in prosecution of their common object went over to the deceased and then committed his murder by causing him hatchets injuries, after keeping the complainant and his witnesses under fear of death and then buried his dead body in watercourse in order to save themselves from legal consequences. The specific role of causing hatchets injuries to the deceased has been attributed to the applicants and on arrest from them have been secured the hatchets allegedly used by them in commission of incident. In that situation, it would be premature to say that the applicants being innocent have been involved in this case falsely by the complainant party. No doubt, the delay of 38 hours in lodgment of FIR is there, but same has been explained plausibly in FIR itself. The delay in lodgment of FIR even otherwise could not be resolved by this Court at this stage. Co-accused Moula Bux no doubt has been let-off by the police during course of investigation but such fact is not enough to conclude at this stage that the applicants are innocent. On the basis of CDR reports' the availability of the complainant and his witnesses at the place of incident could hardly be disbelieved by this Court at this

stage. The deeper appreciation of the facts and circumstances it is settled by now is not permissible at bail stage. The confinement of the applicants in jail for about one year in case like the present one is not enough to order their release on bail by making a conclusion that their case is calling for further enquiry. There appear reasonable grounds to believe that the applicants are guilty of the offence with which they are charged.

7. In view of the facts and reasons discussed above, the applicants are not found entitled to be released on bail. Consequently, the instant bail application is dismissed with direction to learned trial Court to expedite the disposal of the case preferably within three months after receipt of copy of this order.

**JUDGE**

Ahmed/Pa,