

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-619 of 2020

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

1. For orders on office objection.
2. For orders on M.A. No.4198/2020.
3. For hearing of main case.

16.11.2020.

Mr. Khalid Saeed Soomro, Advocate for applicants.
Ms. Sobia Bhatti, A.P.G for the State.
Mr. Safdar Ali Charan, Advocate along-with the complainant.

==

ORDER

Irshad Ali Shah J:- It is alleged that applicants with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object not only committed qatl-i-amd of Ali Asghar but caused fire shot injuries to PWs Mumtaz Hussain, Rameez, baby Heer Bano and boy Hasnain, who were passing through the place of incident at the time of incident. Subsequently, baby Heer Bano also died of her injuries, for that present case was registered.

2. The applicants on having been refused post arrest bail by learned Additional Sessions Judge-IV, Dadu have sought for the same from this court by way of making 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 in order to satisfy its old enmity with them; there is delay of more than one day in lodgment of F.I.R; no injury to the injured or to the deceased is attributed to the applicants specifically; the complainant and PWs are related inter se, therefore, the applicants are entitled to be released on bail on point of further inquiry. In support of his contention he relied upon cases of *Jaffar and others*

vs The State (1980 SCMR 784) and Shah Zaman vs The State (2018 YLR 1800).

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicants by contending that the applicants have committed murder of the deceased in a very brutal manner; the firing upon the deceased was indiscriminate which is attributed to the applicants and on arrest from them have been secured incriminating pistols, therefore, they are not entitled to the grant of bail. In support of their contention, they have relied upon cases of *Mohsin Ali vs The State and others (2016 SCMR 1529)*, *Safiullah and 13 others vs The State (2014 P.Cr.L.J 559)* and *Abdul Latif Vs. The State and another Vs. The State and another (2015 P Cr. LJ 1083)*.

5. By rebutting the above contention, it is contended by learned counsel for the applicants that the recovery of the crime weapons has been made from the applicants on the fifth day of arrest, which is doubtful.

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

7. The names of the applicants are appearing in the F.I.R with specific allegation that they with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object went over to the complainant party and fired at the deceased Ali Asghar as a result thereof not only he lost his life but the passerby as are named above sustained fire shot injuries, one amongst them namely baby Heer Bano too has died on account of said injuries. In that situation, it would be premature to say that the applicants being innocent have been involved falsely in this case by the complainant party. Enmity between the parties may be there but it may not be a reason for false involvement of the applicants in this case at the cost of lives of innocent persons. On arrest from the applicants have been secured the crime weapons which have been found similar with the empties secured from the place of incident, such recovery could not be doubted at this stage only for the reason

that it is effected on the fifth day of arrest of the applicants. No doubt there is delay of about one day in lodgment of the F.I.R but it is explained in the F.I.R itself. The delay in lodgment of the F.I.R, even otherwise could not resolved by this Court at this stage. The complainant and his witnesses may be related interse but their relationship is not enough to disbelieve them at this stage. There appear reasonable grounds to believe that the applicants are guilty of the offence, with which they are charged.

8. The case law which is relied upon by learned counsel for the applicants is on distinguishable facts and circumstances. In case of *Jaffar and others* (supra), there was counter version of the incident. In the instant case there is no counter version of the incident. In case of *Shah Zaman* (supra), no injury to the deceased was attributed to the accused. In the instant case injuries to the deceased are attributed to the applicants..

9. In view of the facts and reason discussed above, it could be concluded safely that the applicants are not found entitled to be released on bail. Consequently, their 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.

10. 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

Muhammad Danish Steno*