

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
Cr.B.A.No.S-1056 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.

**02.02.2021.**

Mian Taj Muhammad Keerio, advocate for applicant.  
Ms. Sobia Bhatti, A.P.G for the State.  
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**Irshad Ali Shah J;-** It is alleged that the applicant with rest of the culprit during course of robbery caused fire shot injury to PW Asghar Ali with intention to commit his murder. On cries being raised by complainant Ilamuddin and others, co-villagers came to their rescue, consequently they killed one of the alleged culprit namely Ibrahim by causing him hatchet and lathi blows, for that the present case was registered.

2. The applicant on having been refused post arrest bail by the learned Additional Sessions Judge-I, Tando Adam has sought for the same from this court by way of instant application U/s 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 to save its skin from murder of Ibrahim and even otherwise no effective role is attributed to the applicant in

commission of incident. By contending so, he sought for release of the applicant on bail on point of further enquiry.

4. Learned A.P.G for the State has opposed to release of applicant on bail by contending that he has remained in absconsion for considerable period.

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

6. The FIR has been lodged with delay of about 11 hours; such delay could not be over looked. Death of Ibrahim who is alleged to be co-accused at the hands of the complainant party could not be lost sight of. In these circumstances, the contention of learned counsel for the applicant that the applicant has been involved in this case falsely by the complainant party to save its skin from the consequence of death of Ibrahim could not be ignored. Obviously, the guilt of the applicant is calling for further enquiry and he as such could not be denied concession of bail on point of absconsion alone.

7. In case of **Mitho Pitafi vs. The State (2009 SCMR 299)**, the Honourable Apex Court has held as follows;

*“----S. 497---Penal Code (XLV of 1860), Ss.302/324--- Constitution of Pakistan (1973), Art.185(3)---Bail, grant of---Trial Court had rejected the bail of petitioner on account of his absconsion and not on merits---Validity--- Bail could be granted, if accused had good case for bail on merits and mere his absconsion would not come in the way while granting him bail---High Court had not*

*appreciated the facts and circumstances of the case in its true perspective while declining bail to the petitioner--Petition was converted into appeal and same was allowed---Impugned order passed by the High Court was set aside and the petitioner was directed to be released on bail, in circumstances."*

8. In view of above, the applicant is admitted to bail subject to his furnishing surety in sum of Rs.100,000/- and PR bond in the like amount to the satisfaction of learned trial Court.

9. The instant bail application is disposed of accordingly.

JUDGE

