

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Bail Application No. 1853 of 2021

---

Date	Order with Signature(s) of Judge(s)
------	-------------------------------------

---

For hearing of bail application.

10.01.2022

-----  
Mr. Nisar Ahmed, Advocate for applicant/accused.

Mr. Abrar Khichi, Additional Prosecutor General alongwith  
P.I. Manzoor Ahmed/I.O. P.S. New Town, Karachi.  
-----

Having been rejected his earlier bail application bearing No. 4330 of 2021 by the learned II<sup>nd</sup> Additional Sessions Judge, Karachi-East, vide order dated 16<sup>th</sup> September, 2021, applicant/accused Manzoor Ahmed s/o. Jumma Khan through instant bail application seeks post arrest bail in Crime No. 163 of 2021, registered under Section 302/34 P.P.C., at P.S. New Town, Karachi.

2. Briefly stated facts of the case are that, on 03.04.2021 at 0440 hours, complainant Mehnaz Bibi wife of Shabbir Ahmed lodged the aforesaid F.I.R., alleging therein that, on 02.04.2021 at 0915 hours, she was in Hyderabad, when she received a phone call from a friend of his brother-in-law's son, namely, Sanaullah, informing her that the later had died and his dead body was lying in hospital. She reached Jinnah Hospital, Karachi where she was informed that the dead body of Sanaullah was lying in mortuary of the hospital which she could receive through police. She also came to know that the deceased had gone to Liaquat National Hospital to see his relative; when he came out on Stadium Road at Gate No. 3 of the said hospital, accused persons riding on a motor-cycle committed his *qatl-i-amd* by causing fire shots injuries to him. She then lodged the F.I.R. by nominating (i) Abdul Malik s/o. Changez Khan, (ii) Gul Hassan s/o. Jafar and (iii) Manzoor Ahmed s/o. Juma Khan (*applicant/accused*) and two unknown persons alleging that they killed Sanaullah due to family enmity.

3. Heard the learned counsel for the applicant/accused as well as learned Additional Prosecutor General and perused the material available on record.

4. The incident has taken place in dark hour (2010 hours). It is an admitted position that the complainant is not the eye-witness of the incident and applicant/accused has been nominated in the F.I.R. on the basis of suspicion on account of family enmity. It reflects from the record that after lodging of the F.I.R., police recorded 161, Cr. P.C. statements of two alleged eye-witnesses witnesses, namely, Abdul Nabi (*aged 16 years*) and Mst. Imam Khatoon (*aged 17 years*), who are brother and sister inter-se and relatives of the complainant, after 13 days of the alleged incident without furnishing any plausible explanation for such delay. They have deposed in their statements that they saw the nominated accused causing firearm injuries to the deceased; however, their names are not mentioned in the F.I.R. It may be observed that the credibility of a witness is looked with serious suspicion if his statement under section 161 Cr. P.C. is recorded with delay without offering any plausible explanation; it would create a dent in prosecution case. It further reflects that as per memo of site inspection, the alleged incident took place in front of Gate No. 3 of the Liaquat National Hospital, in opposite side of 'Times Medicos'; however, the said medical store is not located in front of Gate No. 3 of the said hospital but at Stadium Road on the opposite side of the road leading to Civic Centre, after passing Liaquat National Hospital, Agha Khan Hospital, a petrol pump and at the distance of about 300 yards from Gate No. 3 of the Liaquat National Hospital. Hence, the exact location of the crime scene, so also, presence of the alleged eye-witnesses at the spot at the relevant time is yet to be proved after full-fledged trial.

5. For the foregoing facts and reasons, I am of the view that the applicant/accused has prima facie made out a case of further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. Hence, instant application is allowed,

and in result thereof the applicant/accused is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 2,00,000/- (*Rupees Two Lacs only*) and PR bond in the like amount to the satisfaction of the trial Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits. However, in case the applicant/accused misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

JUDGE

*Athar Zai*