

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-75 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.

For hearing of main case.

09.03.2021.

Mr. Ali Ahmed Zaman Patoli, advocate along with applicant.

Ms. Sobia Bhatti, A.P.G for the State.

Mr. Imtiaz Ali Abbasi, advocate for complainant.

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Irshad Ali Shah J;- It is alleged that the applicant with rest of the culprit in furtherance of their common intention committed *murder* of Gul Nawaz by causing him fir shot injury, for that the present case was registered.

2. The applicant on having been refused pre arrest bail by learned Model Criminal Trial Court-II/IVth Additional Sessions Judge, Hyderabad has sought for the same from this court by way of instant application u/s 498-A 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 grudge with him and role attributed to him in commission of incident is only to the extent of instigation; therefore, he is entitled to grant of pre-arrest bail. In support of his contention he has relied upon case of *Babar*

Nadeem vs The State through P.G. Punjab and another (2020 SCMR 1253).

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that he has actively participated in commission of incident by instigating others to commit death of the deceased.

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

6. The role attributed to the applicant is only to the extent of instigation. The parties are admittedly disputed with each other. In that situation, the involvement of the applicant in this case on the basis of vicarious liability obviously is calling for further inquiry. In that situation, it is rightly being contended by learned counsel for the applicant that applicant is entitled to grant of pre-arrest bail on point of malafide.

7. In view of above, the interim pre-arrest bail already granted to the applicant is confirmed on same terms and conditions.

8. The instant bail application is disposed of accordingly.

JUDGE