

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

Criminal Bail Application No.S-319 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objections.
	2. For hearing of main case.

23.05.2022

Mr. Muhammad Hashim Laghari, Advocate for the applicant.
Ms. Safa Hisbani, Assistant Prosecutor General, Sindh.
Agha Abdul Nabi, Advocate for the complainant.

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IRSHAD ALI SHAH, J.- It is alleged that the applicant with rest of the culprits in furtherance of their common intention committed murder of Janahzeb by causing him fire shot injuries, for that the present case was registered.

2. The applicant, on having been refused post-arrest bail by learned Model Criminal Trial Court-I, Hyderabad has sought for the same from this Court by way of instant application u/s: 497 Cr.PC.

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; the F.I.R of the incident though lodged with delay of 02 days yet it does not contain the name of the applicant, therefore, he is entitled to be released on bail on point of further inquiry.

4. Learned Assistant Prosecutor General, Sindh and learned counsel for the complainant have opposed to release of the applicant on bail by contending that he has conspired the incident and from him has been secured weapon and motorcycle used in commission of incident, therefore, he is not entitled to concession of bail. In support of their contentions, they relied upon the case of *Mst. Jeewan Mai Vs. The State and others* [PLD 2015 SC 242].

5. In rebuttal to above, it is contended by learned counsel for the applicant that pistol and motorcycle have been foisted upon the applicant even otherwise no role of causing fire shot injuries to the deceased is attributed to him.

6. Heard arguments and perused the record.

7. Admittedly, the F.I.R of the incident has been lodged with delay of about two days, yet it does not contain the name and description of the applicant, he has been involved in commission of incident on the basis of further statement of the complainant, which was recorded with delay of about two months to F.I.R. the further statement could hardly be treated as a part of F.I.R. Co-accused Niaz Muhammad and Yousuf Ali Shah have already been admitted to bail by learned Trial Court. The specific role for committing death of the deceased by causing him fire shot injuries is attributed to co-accused Shahzad Bhatti. The case has finally been challaned and there is no apprehension of tampering with the evidence on the part of the applicant. In these circumstances, a case for grant of bail to the applicant obviously is made out and such concession could not be denied to him only on the basis of recovery of pistol and motorcycle which is alleged to have been foisted upon him.

8. The case law which is relied upon learned A.P.G for the state and learned counsel for the complainant is on distinguishable facts and circumstances, in that case bail was obtained for accused by concealing the facts that the co-accused with similar role has already been denied concession of bail.

9. In view of above, the applicant is admitted to bail subject to furnishing surety in the sum of Rs.200,000/- and P.R bond in the like amount to the satisfaction of learned Trial Court.

10. The instant bail application is disposed of accordingly.

JUDGE

