

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD.

Cr. Bail Application No.S-21 of 2022

Applicant:

Abdul Majid through Mr. Aijaz  
Ali Khaskheli and Mr. Ahmed  
Nawaz Chang advocates.

Date of hearing:  
Date of decision:

07.01.2022  
07.01.2022

ORDER

**Zulfiqar Ali Sangi, J:** Through this bail application, the applicant/ accused Abdul Majid seeks pre-arrest bail in Crime No. 248/2021, registered at police station Qasimabad, for offences under sections 302, 114, 34 PPC. Earlier on approach his bail application was declined by Learned Model Criminal Trial Court-I Hyderabad vide order dated 03.01.2022.

2. Brief facts of the case as per FIR are that on 15.10.2021 due to misplacement of peacock, applicant on instigation of his brother Wajid made straight firing from his rifle upon his servant Usman who expired on spot.

3. Learned Counsel for the Applicant, at the very outset, submits that the applicant is innocent and was involved by the complainant with malafide intentions; that persons of complainant party are notorious blackmailers of the locality and in order to usurp the property of applicant they not only involved him in this false case but also attacked on his house; that the post-mortem report also does not reflects the version of complainant and makes the case of prosecution one of further inquiry, hence the applicant is entitled for grant of bail.

4. I have heard learned Counsel for the Applicant and have gone through the material available on record.

5. Record reflects that the applicant is nominated in the FIR with specific role that on instigation of co-accused Abdul Wajid Khaskheli, he fired from rifle on the deceased Usman thereby committed his murder. Argument of learned counsel for the applicant that further statement of the complainant is

contradictory which shows malafide of the complainant. At this stage it is not clear as to why I.O. has recorded the complainant's further statement in the circumstances when FIR is already on record with complete features of alleged crime scene. From the post mortem report it appears that beside the fire injury, MLO found some abrasion on the body of deceased. This cannot be ignored for the reason that there is no any finding of the IO about such abrasion which means that nature of the same being anti-mortem cannot be ignored in the circumstances. No proof that applicant has been falsely implicated out of malafide has been brought on record. Even otherwise, in the absence of any apparent malafide on the part of complainant or the police, the applicant cannot claim extra-ordinary equitable concession of pre-arrest bail in criminal case wherein one young boy of 18 years lost his life due to the fire shot attributed to the applicant.

6. In view of above, the applicant has failed to make out his case for pre-arrest bail at this stage which is extra-ordinary in nature therefore, this criminal bail application is dismissed in limine alongwith pending applications.

7. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE