

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

Criminal Bail Application No.S-1153 of 2021

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

**08.04.2022**

Syed Tariq Ahmed Shah, Advocate for applicant.

Ms. Safa Hisbani, A.P.G for the State.

Mr. Mian Taj Muhammad Keerio, Advocate for complainant.

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**Irshad Ali Shah I:-** It is alleged that the applicant with the rest of the culprits after having formed an unlawful assembly and in prosecution of their common object committed murder of Imam Bakhsh by causing him hatchets and lathies blows and then went away by insulting, threatening and causing lathi blow to complainant Sadiq Ali, for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned Additional Sessions Judge, Khipro has sought for the same from this Court by making 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 in order to satisfy its dispute with him over property; the name of the applicant is not disclosed in *Roznamcha* Report; the F.I.R of the incident has been lodged with delay of about 10 hours and role attributed to the applicant in commission of the incident is only to the extent of causing lathi blows to the complainant and the deceased. By contending so, he sought for

release of the applicant on bail on point of further inquiry. In support of his contentions, he relied upon the cases of *Muhammad Iqbal alias Bala Bandri Vs. The State and others* [2017 SCMR 1939], (ii) *Suhail Ahmed Agha Vs. The State* [2020 YLR Note 40] and (iii) *Muhammad Boota Vs. The State and others* [2014 SCMR 1355].

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to release of the applicant on bail by contending that the *Roznamcha* entry was not kept at the instance of complainant; the applicant has actively participated in commission of incident by causing lathi blows to the complainant and the deceased and on arrest from him has been secured the incriminating lathi. In support of their contentions, they relied upon the case of *Ayaz Ali Vs. The State* [2021 MLD 699].

5. Heard arguments and perused the record.

6. The applicant is named in FIR with specific allegation that he with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object went over to the complainant party and then committed murder of the deceased by causing him hatchets and lathi blows and then went away by causing lathi blow to the complainant. The specific role of causing lathi blows to the complainant and deceased has been attributed to the applicant and on arrest from him has been secured such lathi. In that situation, it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party. The delay in lodgment of FIR has been explained plausibly in F.I.R itself same even otherwise could not be resolved by this Court

at this stage. The *Roznamcha* entry obviously was kept by police on receipt of telephonic message with regard to the incident, therefore, it could hardly be made a reason to make the applicant entitled for his release on bail. The deeper appreciation of facts and circumstances even otherwise is not permissible at bail stage. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged.

7. The case law which is relied upon by learned counsel for the applicant is on distinguishable facts and circumstances. In case of *Muhammad Iqbal alias Bala Bandri (supra)* the accused was charged for an offence punishable under section 322 P.P.C. In the instant case the accused is charged for offence punishable under section 302 P.P.C. In case of *Muhammad Boota (supra)* no injury was caused by the accused to the deceased. In the instant case, the applicant is alleged to have caused lathi blow to the deceased. In case of *Suhail Ahmed Agha (supra)* the F.I.R was lodged with delay such delay was not explained plausibly and accused was infirm person. In the instant case, the delay in lodgment of F.I.R is explained and the accused is not an infirm person.

8. In view of above, it could be concluded safely that no case for grant of bail to the applicant is made out, consequently, the instant bail application is dismissed.

**JUDGE**

*Muhammad Danish\**