

**ORDER SHEET**

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

Cr. Bail Application No.S-1027 of 2022

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**DATE**                      **ORDER WITH SIGNATURE OF JUDGE(S)**

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1. For orders on office objections.
2. For hearing of main case.

10.10.2022.

Applicant is present on ad-interim pre-arrest bail.  
Mr. Khait Kumar Khatri, Advocate for applicant.  
Mr. Shahzado Saleem Nahiyoon, Additional P.G.  
Complainant is present in person.

O R D E R

**MUHAMMAD IQBAL KALHORO, J-** Over previous enmity, applicant armed with a repeater alongwith seven co-accused, duly named in FIR, also armed with firearm weapons, entered the house of complainant situated in village Sobho Khan Parhiyar, Taluka Hyderabad, and fired at deceased Manthar, killing him at spot. The main role of firing at the deceased is attributed to co-accused Shakeel and Waheed. Applicant is alleged to instigate them. In the first investigation, applicant's role of instigation was confirmed by PWs but in subsequent investigation, PWs Ayoub and Rasheed, named in FIR as witnesses, have denied presence of applicant and others five co-accused at spot. On the basis thereof, six accused including applicant were exonerated and their name was placed in Column No.2 of the challan. But, the Magistrate did not agree to it and took cognizance of offence against all the accused.

2. I have heard the parties. Learned Defence Counsel submits that case against applicant is of further inquiry as there is previous enmity between the parties and except instigation no specific role has been attributed to him. Four co-accused namely, Lal Muhammad, Aamir @ Muhammad Hashim, Javed and Khalid, having been assigned more or less same role, have been granted bail by the trial Court.

3. Complainant is present in person and submits that any order may be passed. Learned Additional P.G has submitted that since the PWs, shown to be present at the relevant time, have denied presence of applicant, any order in the circumstances would be

acceptable to him. No doubt, in FIR, applicant is shown to be present at spot but in the investigation his presence at the spot has been *prima facie* denied by the PWs. Case of further inquiry, therefore, is made out, and more so since there is bad blood between the parties, his false implication also cannot be ruled out. Accordingly, this application is allowed and ad-interim pre-arrest bail already granted to the applicant is hereby confirmed on same terms and conditions.

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

JUDGE

Shahid