

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2351 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

26-01-2023

Khawaja Muhammad Azeem, Advocate for applicant.
Mr. Muntazir Mehdi, Addl.P.G.

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Omar Sial, J.: Mohammad Tauheed has sought post arrest bail in crime number 1354 of 2021 registered under sections 302, 324, 394, 109 and 34 P.P.C. at the Orangi Town police station. Earlier, his application seeking bail was dismissed on 25.11.2022 by the learned 6th Additional Sessions Judge, Karachi West.

2. A background to the case is that the aforementioned F.I.R. was registered on 07.12.2021 on the complaint of Badshah Khan. He recorded that the previous day i.e. at 9:15 p.m. on 06.12.2021, he received information that his nephew, Arsalan, and Arsalan's friend, Yasir, had been fired upon and that they had sustained bullet injuries. Subsequently Arsalan succumbed to his injuries. Badshah further learned that while the 2 boys were coming back from their tuitions on a motorcycle, 2 persons riding another motorcycle had attempted to stop and rob them and in that attempt had fired at and injured the 2 boys.

3. The applicant (who was a policeman) along with one Mohammad Umair were identified as the 2 alleged shooters and were arrested on 11.02.2022. They were recognized and identified by the injured Yasir. The SHO of the police station where Tauheed was deputed, namely Azam Ali Gopang, was also included as an accused in the crime and assigned the role of instigating Tauheed and Umair to fire upon the 2 boys. Azam Ali Gopang was admitted to post arrest bail by this Court on 04.11.2022.

4. Learned counsel for the applicant has argued this bail application solely on one ground i.e. consistency. Learned counsel was of the view that Tauheed's case was exactly on the same footing as Azam Ali Gopang. Learned Addl.P.G. has supported the impugned order. I have heard the counsels and reviewed the evidence available. My observations and findings are as follows.

5. It is with much respect that I am not inclined to agree with the argument of the learned counsel for the applicant that Tauheed's case is on the same footing as that of Gopang and thus he should also be granted bail on the ground of consistency. The facts of the case reveal that Tauheed and Umair were accused of following the motorcycle of the 2 boys and having shot upon them at a relatively close range. No allegation of firing was leveled against Gopang.

6. Another reason that swayed this Court to grant bail to Gopang was that the story of how he was involved was rather vague and the shooters themselves during investigation had acknowledged that Gopang was not present on the scene. This too, differs the case of the applicant from that of Gopang.

7. In view of the above, Tauheed having been identified by Yasir and having chased the 2 boys on a motorcycle and being accused of firing on the 2 boys, puts his case on a different pedestal than that of Gopang. No other ground being urged by the learned counsel nor any appearing upon a tentative assessment of the record, the bail application stands dismissed.

JUDGE