

**HIGH COURT OF SINDH, CIRCUIT COURT AT
HYDERABAD**

Cr. Bail Application No.S-1367 of 2022

[Azam Masih versus The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant	: Through Mr. Abdul Mueed Shaikh advocate
Complainant	: Through Mr. Tariq Mahboob advocate
State	: Through Mr. Siraj A. Bijarani Assistant P.G
Date of hearing	: 17.02.2023
Date of Decision	: 17.02.2023

ORDER

KAUSAR SULTANA HUSSAIN, J. – Applicant Azam Masih is seeking post arrest bail in Crime No.64 of 2022 registered at Mangli police station for offences punishable under Sections 302, 114, 337-A(i), 337-F(i), 337-H(ii), 147, 148, 149 & 504 PPC. His same plea has been rejected by the learned trial Court vide Order dated 09.12.2022.

2. The allegation against the present applicant/accused, as per FIR, is that on 19.10.2022 on his instigation co-accused persons caused injuries to complainant party due to which son of Complainant namely Fida Hussain lost his life.

3. Learned counsel for the applicant/accused contents that no specific role has been assigned to the present applicant; that except two co-accused persons, rest of the accused have been granted bail by the learned trial Court and that applicant is old age of above 70 years and he is behind the bar since his arrest without any role of him. He lastly prayed that applicant may be admitted to bail.

4. Learned APG, assisted by the learned Complainant's Counsel, however, opposed the bail application and submits that applicant is named in FIR with specific role of instigation and that due to instigation of present applicant co accused had caused injuries to son of Complainant, who lost his life, as such he is not entitled for concession of bail.

5. I have heard the learned counsel for the applicant as well as learned A.P.G and also gone through the material available on record. Admittedly no injury has been attributed to the applicant/accused and he has been assigned only role of instigation, which is yet to be determined after recording of evidence. Final challan has been submitted and applicant/accused is no more required for any further investigation, therefore, keeping him behind the bar will serve no purpose.

6. In view the principle settled in the case of TARIQ BASHIR and 5 Others Versus THE STATE reported in P.L.D 1995 SC 34, I do not find any exceptional or extraordinary circumstances to deny the applicant's bail. Accordingly the applicant is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.3,00,000/- (Rupees Three Lacs Only) and a P.R. Bond in the like amount to the satisfaction of the learned trial Court.

7. Needless to mention here that observations made hereinabove are tentative in nature and the same may not prejudice the case of either party at trial. However, learned trial Court is directed to expedite the trial and conclude it within a period of three months from the date of receipt of this Order. It is also made clear that if at any stage applicant/accused misuses the concession of bail, the learned trial Court shall be competent to take action against him in accordance with law, without making reference to this Court.

8. The Jail Superintendent (**Shakeel Ahmed**) present in person, while explaining the circumstances of delay in submission of medical report, tenders apology and prayed for recalling of show cause notice. Explanation furnished by the Jail Superintendent seems to be reasonable. Accordingly show cause notice issued to him vide Order dated 13.02.2022 is recalled, however, he is directed to be careful in future.

9. Instant bail application stands disposed of accordingly.

Sajjad Ali Jessar

JUDGE