

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 47 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

22-02-2023

Mr. Israr Ali Bhaagat, Advocate for applicant.

Mr. Faheem Ahmed Panhwar, Addl.P.G. a/w SIP Muhammad Sarwari,
I.O. of the case.

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Omar Sial, J: Sumandar has sought post arrest bail in crime number 66 of 2022 registered under sections 302 and 34 P.P.C. at the Gulshan-e-Maymar police station in Karachi. Earlier, his application seeking bail was dismissed by the learned 8th Additional Sessions Judge, Karachi West on 22.12.2022.

2. A background to the case is that on 08.02.2022 an unidentified dead body with fire arm injuries on the head was found by the police. The police recovered 3 empties or a 0.30 bore pistol, blood stained mud and a motorcycle lying next to the dead body. The aforementioned F.I.R. was registered on the complaint of A.S.I. Ghulam Mohammad on behalf of the State.

3. The police was not successful in finding any clue regarding who committed the murder. At some point in time, which is not very evident from the record, 3 Afghan nationals by the name of Mohammad Arif, Shaheen Gul and Faisal came to the police station and said that the dead man was known to them and that they had come to Pakistan from Afghanistan one month ago. One of the 3 men i.e. Arif claimed to be the brother of the dead man, who was identified as Jeelani. On further information provided by Arif, the police reached one Mohammad Ullah, with whom Jeelani was last living in Pakistan. Arif suspected that it was Mohammad Ullah who had killed Jeelani. Mohammad Ullah, when

arrested, stated that Jeelani was actually living with one Maqsood Gul and that 8 days before the incident, Jeelani had come to live with Mohammad Ullah. Jeelani, according to Mohammad Ullah committed robberies along with one Junejo. Another character by the name of Asif (also an Afghan) asked Mohammad Ullah to call Jeelani to him. When Jeelani came 3 persons on a motorcycle – who were identified as Asif, Saeed Ahmed and Sumandar Khan (the applicant) came on the spot and Saeed Ahmed shot Jeelani three times in his head.

4. I have heard the learned counsel for the applicant as well as the learned Addl.P.G. My findings and observations are as follows.

5. The only evidence available with the prosecution is the statement of a co-accused i.e. Mohammad Ullah. Even Mohammad Ullah in his statement has attributed the killing of Jeelani on Saeed Ahmed and not on the applicant. The applicant is said to have accompanied Saeed Ahmed and was present on the spot when the shooting occurred. Whether or not the applicant can be held vicariously liable for the alleged acts of Saeed Ahmed can only be established after the learned trial court has had an opportunity to evaluate evidence. At the moment however further inquiry is required to establish the nexus of the applicant with the crime complained of.

6. For the above reasons the applicant is admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs. 200,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE