

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

Cr. Bail Appl. No.D-58 of 2011


DATE	ORDER WITH SIGNATURE OF JUDGE
22.08.2011.	

Mr. Ghulamullah Chang Advocate for the Applicant.
Syed Meeral Shah Deputy Prosecutor General Sindh

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Ahmed Ali M. Shaikh J. Applicant Haya @ Hayat Khan Pathan, alongwith others has been booked in crime No.299/2010 of P.S. Hatri Hyderabad for offence punishable u/s 302, 337 A(i), F(i), 147,148, 149, 353, 114 PPC r/w section 6/7 of Anti Terrorism Act, seeks post arrest bail as his bail plea has been turned down by the trial court by impugned order dated 27.07.2011.

2. Brief facts of the prosecution case are that on 18.11.2010 at 1110 hours, present applicant grappled with P.C. Barkat Ali, who at the time of occurrence was deployed at M.C.B Hala Naka Branch Hyderabad and during such scuffle SMG rifle of PC Barkat Ali went off and applicant received bullet injury, following which other persons by rioting, spreading terror and deterring in lawful duty of PC Barkat Ali inflicted scissor blows in his abdomen with intention to commit his murder, however, during such occurrence police party headed by Inspector Qamar Zaman Pathan arrived at the place of occurrence, got boarded PC Barkat Ali in their vehicle, brought him at Hospital but he succumbed to his injuries.

3. Mr. Ghulamullah Chang learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the case; though the applicant is victim of the alleged occurrence but he has been  implicated as an accused. He further contends that even per prosecution at

the time of occurrence applicant was neither armed with any weapon nor caused any injury to deceased Barkat Ali or any member of the complainant party. He lastly contends that after receiving fire arm injury at the hands of police, present applicant went unconscious, admitted in hospital, however, his life was saved and he survived after surgery.

4. Conversely Syed Meeral Shah Deputy Prosecutor General Sindh opposed the bail application. However, he could not controvert the contentions raised by the learned counsel for the applicant.

5. Admittedly at the time of occurrence the applicant was empty handed and only allegation against him is that he grappled with P.C Barkat Ali and during such scuffle he received fire arm injury at the hands of deceased Barkat Ali. Per prosecution after such incident, co-accused came at the place of occurrence and in prosecution of their common object inflicted scissor injuries to PC Barkat Ali who later on succumbed to his injuries. Since no overt act is attributed to the present applicant except allegation of grappling with PC Barkat Ali, neither any incriminating article has been recovered from him nor prosecution has collected any material connecting him with the commission of alleged offence. In view of above, we are clear in our mind that applicant has succeeded to make out a case for further inquiry as envisaged under section (2) of section 497 Cr.P.C.

6. For the foregoing reasons, applicant was granted bail by our short order dated 18.08.2011.


JUDGE


JUDGE