

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1209 of 2022

Criminal Bail Application No.S-12 of 2023

Applicants: Muhammad Aslam Son of Ghulam Nabi and Zameer Hussain son of Ghulam Yaseen through Mr. Muhammad Sabir Hussain, Advocate.

Complainant: Zeeshan Ali Son of Muhammad Ibrahim through Mr. Abdul Razzaque Dars, Advocate who is holding brief for Mr. Muhammad Hashim Laghari, counsel for complainant.

Respondent: The State through Ms. Rameshan, Assistant Prosecutor General, Sindh.

Date of hearing: **27.03.2023**

Date of Order: **27.03.2023**

O R D E R

AMJAD ALI SAHITO, J:- Through this single order, I intend to disposed of both the captioned bail applications as the same are outcome of one F.I.R and same incident. The applicants / accused above named seek their post-arrest bail in Crime No.131 of 2020 registered under sections 302, 147, 148, 149 P.P.C 6/7 ATA abrogated at P.S A-Section Tando Allahyar, after their bail plea was declined by the learned 1st Additional Sessions Judge-I / MCTC Tando Allahyar, vide orders dated 04.01.2022 and 14.06.2022.

2. The details and particulars of the F.I.R. are already available in the bail application and crime report, same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Per learned counsel the applicants / accused are innocent have falsely been implicated due to previous enmity otherwise applicant / accused Muhammad Aslam was present at Balochistan and he was admitted in the Hospital, as such, he has taken a plea of alibi that he was not present at the time of alleged incident. He further contended that co-accused namely Ali Arif Rind and others have been granted bail, as such, they are also entitled for bail. He also contended though the offence pertaining to year 2019 but no progress has been made in the trial by the learned Trial Court, hence accused persons are entitled for grant of bail on statutory grounds.

4. On the other hand, the complainant present in Court as well as Assistant Prosecutor General, Sindh vehemently opposed for grant of bail to the applicants / accused and submit that the name of applicants / accused transpired in the FIR with specific role that applicant / accused Zameer Hussain was driving the motorcycle whereas applicant Muhammad Aslam sitting behind him armed with pistol and he has fired upon the deceased Altaf Hussain resultantly the vehicle was fallen in ditch and subsequently he died. They lastly pray for dismissal of instant criminal bail applications.

5. I have heard learned counsel for the parties having also gone through the material available on record.

6. Admittedly the names of both applicants namely Muhammad Aslam and Zameer Hussain are transpired in the FIR with specific role that on the day of incident aforesaid Zameer Hussain was driving a motorcycle whereas applicant Muhammad Aslam was armed with pistol they along with co-accused duly armed with lethal weapons attacked upon the complainant party resultantly one Altaf Hussain lost his life. The specific role has been assigned against both the applicants/accused in the commission of incident. Further, it has been pointed out by learned counsel for the applicants that charge has been framed and now the case is transferred for trial inside Central Jail Hyderabad. At bail stage only tentative assessment is to be made. Sufficient material is available on the record which connects the applicants/accused with the alleged offence, as such, the applicants have failed to make out a case for grant of bail in view of sub-section (2) of section 497 Cr.P.C; resultantly instant bail applications are dismissed. However, the learned Trial Court is directed to proceed with the case on day to day basis and conclude the same preferably within three (03) months and submit such compliance report to this Court through its Additional Registrar. In case, the learned Trial Court failed to comply with the above direction, then the applicants would be at liberty to file fresh bail applications before learned Trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature would not influence the learned Trial Court while deciding the case of either party at trial.