

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 403 of 2023

Applicant : Haji Alam Khan s/o. Haji Muddat Khan,
through Mr. Nasrullah Korai, advocate

Respondent : The State, Mr. Zahoor Shah, Additional
Prosecutor General.

Complainant : Sher Khan s/o. Jaffar Khan, through
Mr. Akbar Zameen Khattak, advocate

Date of hearing : 22.06.2023
Date of order : 22.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier Bail Before Arrest Application bearing No. 441 of 2023, arising out of Crime/F.I.R. No. 55 of 2023, registered at P.S. Peerbad, Karachi under Sections 324, 34, P.P.C. by the Court of XIth Additional Sessions Judge, Karachi-West vide order dated 20.02.2023, applicant/accused Haji Alam Khan s/o. Haji Muddat Khan through instant application seeks the same relief from this Court. He was admitted to interim pre-arrest bail by this Court vide order, dated 23.02.2023, now the matter is fixed for confirmation or otherwise.

2. It is alleged that, on 26.12.2022 at 6:30 p.m. there was an altercation between the children of the complainant and applicant, whereupon applicant used abusive language, while his sons co-accused Asif and Ilyas maltreated the complainant and his brother Saif. Meanwhile, the son of the complainant, namely, Asif made a straight fire from his firearm on Saif with intention to commit his *qatl-i-amd*, which hit him on his right upper thigh; he was taken to Abbasi Shaheed Hospital for treatment. The complainant lodged the aforesaid F.I.R. on 26.01.2023 against the accused persons. Subsequently, the said injured was shifted to Civil Hospital, Karachi where he succumbed to his injuries on 13.02.2023; therefore, sections 302, 114, P.P.C. were added in the interim Charge Sheet.

3. After hearing the learned counsel for the applicant, complainant and learned Additional Prosecutor General as well as perusing the material available on record

it appears that the applicant is a 69 years old man; he has stage-IV prostrate carcinoma (*cancer*) and he is receiving treatment from SIUT, Karachi. It further appears that there is an inordinate delay of one month in lodgment of the F.I.R., therefore deliberation and consultation for false implication of the applicant in the instant case for ulterior motive cannot be ruled out. It is an admitted fact that the incident took place over quarrel between the children of the complainant and the applicant, which was a sudden incident. The role of causing death by firearm injury has been assigned to co-accused Asif. Only the presence of present applicant has been shown at the occurrence with empty handed with allegation of using abusive language against the complainant party and no other overt role has been assigned to him for the commission of alleged offence; hence, the question of vicarious liability of the present applicant with regard to the commonness of his intention for committing alleged offence under the circumstances will be determined at the trial.

4. In the circumstances of the case mentioned above, I have found the case against the applicant as one of further inquiry into his guilt, as envisaged under subsection (2) of Section 497, Cr. P.C.; hence, the interim bail already granted to the applicant vide order dated 23.02.2023 is confirmed on the same terms and conditions.

5. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law

Cr. Bail Application stands disposed of.

JUDGE