

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Misc. Application No. S-531 of 2022

(Riaz Ali Channa Vs. Imam Bux & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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- 1. For Orders on office objection.
- 2. For hearing of main case.

18-10-2023.

Mr. J.K Jarwar, advocate for the applicant.
Mr. Abdul Baqi Jan Kakar, advocate for the private respondents.
Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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IRSHAD ALI SHAH - I:- It is the case of the prosecution that the private respondents with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object after keeping the complainant party under wrongful restraint, committed murder of Anees Ali by causing him fire shot injuries and then went away by insulting the complainant party, for that the present case was registered.

2. The private respondents on being booked in the above said offence were admitted to pre-arrest bail by learned Additional Sessions Judge, Kandiaro, which the applicant has sought to be cancelled by making the instant Crl. Misc. Application u/s 497 (5) Cr.P.C before this Court.

3. It is contended by the applicant that the private respondents are vicariously liable for commission of incident, therefore they ought not to have admitted to pre-arrest bail, which is liable to be cancelled by this Court, which is opposed by learned APG for the

State and learned counsel for the private respondents by contending that no active role in commission of incident is attributed to them.

4. Heard arguments and perused the record.

5. The role attributed to the private respondents in commission of incident is only to the extent of instigation and/or keeping the complainant party under wrongful restraint; they have joined the trial and there is no allegation of misusing the concession of bail on their part. In such situation, it would be unjustified to cancel their bail.

6. In case of *Meeran Bux Vs. The State and another* (PLD 1989 SC-347), it has been held by the Honourable Apex Court that;

“Since the appellant remained on bail for more than one year before the bail was cancelled by the High Court without abusing the concession of bail in any manner and the reason given by the learned Session Judge for granting pre-arrest bail that the injury was on non-vital part of the body of 'the deceased i.e. thigh and was simple, was not without foundation, we would, therefore, in the circumstances, set aside the impugned order of the High Court and restore the order of the Sessions Judge granting the pre-arrest bail.”

7. In view of above, the instant Crl.Misc.Application fails and is dismissed accordingly.

J U D G E

Nasim/P.A