

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S-381 of 2023

(*Rashid Ali & another Vs. The State*)

- 1. For Orders on office objection.
- 2. For hearing of Bail Application

23-10-2023.

Mr. Ghulam Murtaza Buriro, advocate for the applicants.
Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

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Irshad Ali Shah, J;- It is alleged that the applicants with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object, committed murder of Ali Gohar by causing him fire shot injuries, for that the present case was registered.

2. The applicants on having been refused bail by learned Ist Additional Sessions Judge/MCTC Khairpur; have sought for the same from this Court by way of instant Crl. Bail Application under Section 497 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party on account of previous enmity; there is counter version of the incident and FIR of the present case has been lodged with delay of one day; therefore, the applicants are entitled to be released on bail on point of further inquiry. In support of his contentions he has relied upon the cases of *Gul Nawab Vs. The State through A.G Khyber Pakhtunkhwa and another* (2022 SCMR 547) and *Babar Hussain Vs. The State and another* (2020 SCMR 871)

4. Learned DPG for the State has sought for dismissal of the instant bail application by contending that the counter version of the incident

has been created by the applicants only to make defence and same even otherwise is not enough to release them on bail when they are fully implicated in commission of incident with specific role. In support of his contention he relied upon case of *Rashid Zaman Vs. The State and others* (2022 SCMR 2111).

5. Heard arguments and perused the record.

6. The applicants are named in the FIR with specific allegation that they committed death of the deceased by causing him fire shot injuries only to satisfy with him their dispute over matrimonial affairs. On arrest from them have been secured the crime weapons, those have been found matched with the empties secured from the place of incident. In that situation it would be premature to say that the applicants being innocent have been involved in this case falsely by the complainant party. The delay in lodgment of FIR by one day is fully explained in FIR itself, same even otherwise could not be resolved by this Court at this stage. There is nothing in the FIR of the present case, which suggests counter version of the incident. If for the sake of arguments, it is believed that there is counter version of the incident; even then it is not enough to release the applicants to bail in case like present one, wherein they have been fully implicated in commission of incident by the complainant party. There appear reasonable grounds to believe that the applicants are guilty of the offence, with which they are charged and no case for grant of bail to them is made out.

7. The case law which is relied upon by learned counsel for the applicants is on distinguishable facts and circumstances. In case of *Gul Nawab (supra)* the role attributed to the applicant was general in nature. In the instant case, the role attributed to the applicants is specific. In case of *Bashir Hussain (supra)* the role attributed to the applicant was of two version, one advanced in FIR with indiscriminate firing and other brought on record by deceased co-accused while making dying declaration attributing role of causing fire shot injuries to him. In the instant case there is no dying declaration and role attributed to the applicants is specific.

8. In view of above, the instant bail application fails and is dismissed accordingly.

Judge

Nasim/P.A