

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
 Crl. Bail Application No. S-434 of 2022
(Muhammad Jurial Kalhoro Vs. The State)

For hearing of Bail Application.

25-10-2023.

Mr. Shabbir Ali Bozdar, advocate for the applicant.
 Mr. Ubedullah Ghoto, advocate for the complainant.
 Mr. Khalil Ahmed Maitlo, Deputy P.G for the State
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Irshad Ali Shah, J. It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object, committed murder of Gul Muhammad by causing him fire shot injuries and then went away by making aerial firing to create harassment, for that the present case was registered.

2. The applicant on having been refused pre-arrest bail by learned Additional Sessions Judge, Moro has sought for the same from this Court by way of instant bail application under Section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party in order to satisfy with him its dispute over money matter; the FIR has been lodged with delay of about one day; there is conflict in medical and ocular account of evidence with regard to the injuries sustained by the deceased; there is no independent witness to the incident and the applicant has not misused the concession of interim pre-arrest bail; therefore, he is entitled to be admitted to pre-arrest bail on point of malafide. In support of his contention, he relied

upon case *Khair Muhammad and another Vs. The State through P.G Punjab and another* (2021 SCMR 130).

4. Learned DPG for the State and learned counsel for the complainant have opposed grant of pre-arrest bail to the applicant by contending that he is named in the FIR with specific role of causing fire shot injury to the deceased on his left arm; he has defeated the recovery of crime weapon from him by enjoying the concession of interim pre-arrest bail and there is no malafide on the part of complainant party to involve him in this case falsely. In support of their contention they relied upon on case of *Allah Dewayo Shahani Vs. The State* (2023 SCMR 1724).

5. Heard arguments and perused the record.

6. The applicant is named in FIR with specific allegation that he caused fire shot injury to the deceased on his left arm. In that situation it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party. The delay in lodgment of FIR by one day has been explained plausibly in FIR itself; same even otherwise could not be resolved by this Court at this stage. No conflict in medical and ocular account of evidence with regard to the injuries sustained by the deceased is noticed. If for the sake of arguments, it is believed to be so; even then same could not be resolved by this Court at this stage for the reason that deeper appreciation of the facts and circumstances is not permissible at bail stage. There may not be any independent witness to the incident but this fact alone is not enough to disbelieve the complainant and his witnesses at this stage; they indeed are appearing to be natural witnesses to the incident. The applicant might have not misused the concession of interim pre-arrest

bail but this fact alone is not enough to admit him to pre-arrest bail, which is extra ordinary concession at law; ignoring his active involvement in commission of incident. Nothing has been brought on record by the applicant which could have suggested malafide on the part of the complainant party leading to his involvement in this case falsely. There appear reasonable grounds to believe that the applicant is guilty of the offence, with which he is charged and no case for grant of pre-arrest bail to him is made out.

7. The case law which is relied upon by learned counsel for the applicant is on distinguishable facts and circumstances of the present case. In that case, the accused were admitted to bail mainly for the reasons that they were of advanced age, feeble and no connected with the crime as alleged against them. In the instant case, the applicant is connected with the crime with specific role of causing fire shot injury to the deceased.

8. The instant Crl. Bail application is dismissed accordingly.

Judge

Nasim/P.A.