

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Bail Application No. S-466 of 2022
(*Pervaiz Kalhoro Vs. The State*)

For hearing of Bail Application.

25-10-2023.

Mr. Muhammad Hassan Pathan, 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 post-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 and there is no independent witness to the incident. By contending so, he sought for release of the applicant on bail on point of further inquiry. In support of his contention, he relied upon case of *Kamran Vs. Kamran Malik and another* (2020 SCMR 1814).

4. Learned DPG for the State and learned counsel for the complainant have opposed to release of the applicant on bail by

contending that he is named in the FIR with specific role of causing fire shot injury to the deceased and his case is not calling for any inquiry. 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 left side of his abdomen below the heart. On arrest from him, has been secured the pistol which he allegedly used in commission of incident; it has been found matched with the empties secured from the place of incident. 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 in order satisfy its dispute with him over money matter. 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. 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. There appear reasonable grounds to believe that the applicant is guilty of the offence, with which he is charged and no case for his release on bail 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 role attributed to the accused was only to the extent of instigation. In the instant case, the role attributed to the applicant is that of causing fire shot injury to the deceased.

8. In view of above, the instant Crl. Bail application is dismissed with direction to learned trial Court to dispose of the very case within three months after receipt of copy of this Order.

Judge

Nasim/P.A.