

**HIGH COURT OF SINDH, CIRCUIT COURT
AT HYDERABAD**

**Cr. Bail Application No.S-450 of 2023
[Rajoo versus The State]**

Date	Order with signature of Judge
Applicant :	Through Mr. Junaid Soomro advocate
Complainant:	Through Mir Shakir Ali Talpur advocate
State :	Through Ms. Sana Memon Assistant P.G Sindh
Date of hearing:	17.11.2023
Date of decision:	17.11.2023

MUHAMMAD KARIM KHAN AGHA J.- Applicant Rajoo has been booked in Crime No.34 of 2023 registered at P.S Bhattae Nagar Hyderabad under Sections 302 and 34 PPC, which is proceeding before learned Additional Sessions Judge-IV/MCTC-I Hyderabad. He had applied for post arrest bail before the concerned trial Court, however, same was declined vide Order dated 29.04.2023, hence he has approached this Court for post-arrest bail.

2. Brief facts of the case as per FIR lodged by complainant Askok Kumar are as under:

That I am residing at above mentioned address and my brother Dharam Dev Rathi was the skin doctor and his clinic is situated at Saddar Hyderabad; on 07.03.2023 at about 2320 hours I came at the bungalow of my brother Dr. Dharam Dev Rathi and found that door of bungalow opened; I entered in the bungalow and saw blood available on floor and chef of the house namely Dileep was available at bungalow as such I became worried and immediately rushed towards room of bungalow; I reached at T.V lounge and found that dead body of my brother Dharam Dev Rathi was lying on floor under the stairs; I enquired from the chef, who disclosed that he is unaware about this incident; I then inquired him about Haneef Leghari who was driver of my brother and Liana Car, on which he disclosed that driver and car are not available at bungalow, meanwhile elder brother Dr. Om. Parkash also arrived at bungalow to whom I disclosed the above facts; Dr. Om Parkash called at 15 for ambulance, meanwhile police of locality also

arrived there; thereafter body of brother was shifted at civil hospital for post mortem through ambulance, where post mortem of brother's dead body was conducted and since the family of brother was at America as such dead body was kept at mortuary of civil hospital Hyderabad and today 08.03.2023 I appeared at police station and complained that unknown accused persons committed the murder of my brother with common intention, as such investigation is to be done.

3. I have heard the learned counsel for the applicant, learned A.P.G as well as learned counsel for the complainant and have perused the record.

4. It appears from the facts mentioned above that Dr. Dharam Dev Rathi was murdered at his house where his body was found and FIR, as mentioned above, was lodged against unknown persons. The applicant Rajoo in this case was arrested on the basis of statement of co-accused Haneef, who alleged that he/applicant played some part in murder of Dr. Dharam Deve Rathi. It is well settled by now that statement of co-accused against another accused has no evidentiary value. The only evidence against the present applicant is that co-accused Haneef has mentioned in his statement that present applicant Rajoo is involved in murder. It is noted that applicant Rajoo is not even produced before the concerned Magistrate for his identification parade and only vague allegation seems to have been made concerning his involvement in the murder. No doubt this is a serious offence, however, in my view the facts collected so far by the prosecution are not sufficient to connect the present applicant with the commission of this offence, especially when the evidence regarding common intention appears to be lacking in respect of this un-seen incident. No doubt the offence charged is very serious in nature, however, based on particular facts and circumstances of the case and on account of above discussion, I found this case of further inquiry.

5. In view of above applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.5,00,000/- and P.R Bond in the like amount to the satisfaction of learned trial Court.

6. Needless to mention here that observations made hereinabove are tentative in nature and will not prejudice the case of either party at trial.

7. Captioned bail application stands disposed of accordingly.

JUDGE