

# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1316 of 2023

Applicant : Sagheer Ahmed S/o Muhammad Ramzan  
through Mr. Muhammad Nawaz Khan  
Sadozai, Advocate

Complainant : Sheraz Khan S/o Muhammad Ismail  
through Syed Masood Ahmed Shah  
Bukhari, Advocate

Respondent : The State  
Through Mr. Abrar Ali Khichi,  
Addl. P.G., Sindh

Date of hearing : 05.09.2023

Date of order : 05.09.2023

## **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.173/2022 for the offence under Sections 302, 394, 396, 397, 337-A(i), 337-F(i), 337-F(iii), 120(b) PPC registered at PS Thatta, after his bail plea has been declined by the learned IInd Additional Sessions Judge, Thatta vide order dated 16.05.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that name of the applicant/accused does not transpire in the FIR so also no specific role has been assigned against him; that statement of the victim was recorded in which he stated that the applicant/accused was only present at the place of incident, otherwise he has not committed any offence; that the FIR is delayed about 22 hours, for which no plausible explanation was given by the complainant. He lastly prays for grant of post-arrest bail.

4. On the other hand, learned Addl. PG and learned counsel for the complainant have vehemently opposed for grant of bail.

5. I have heard the learned counsel for the parties and have perused the material available on record.

6. Admittedly, the name of the applicant does not transpire in the FIR; however, after the arrest of the applicant, he was put for identification parade wherein the complainant and injured witnesses identified him in the commission of robbery, in which one person lost his life and second became injured while looting an amount of Rs.717,000/- when the complainant party raised hue and cry, as such, accused persons fired upon them.

7. So far as the contention of learned counsel for the applicant that no specific role has been assigned against the present applicant is concerned, it is suffice to say that in view of Section 396 PPC, if any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which shall not be less than four years nor more than ten years, and shall also be liable to fine. Since in the instant case, one person lost his life and another became injured and punishment provided under the law is death, therefore, this contention of learned counsel has no force.

8. As far as delay of 22 hours in the lodgment of FIR is concerned, the complainant stated that after the incident, the injured were shifted to Thatta Hospital thereafter, one injured was taken to Agha Khan Hospital, hence, the delay is properly explained. At bail stage, only a tentative assessment is to be made. No ill-will or enmity or malafide has been pointed out by the learned counsel for the applicant. The ocular evidence finds support from the medical evidence. The prosecution witnesses have also supported the version of the complainant in their 161 Cr.P.C. statement.

9. In view of above, learned counsel for the applicant has failed to make out a case for grant of post-arrest bail in terms of subsection 2 of Section 497 Cr.P.C. Accordingly, the instant Bail Application is **dismissed**.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

Kamran/PA