

ORDER-SHEET
**IN THE HIGH COURT OF SINDH CIRCUIT
COURT HYDERABAD**

Criminal Bail Application No.S-458 of 2023

25.09.2023

Mr. Murtaza Ahmed Memon, advocate, for applicant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Mr. Nazeer Ahmed Bhatti, advocate for complainant.

ORDER

ZULFIQAR ALI SANGI, J:- This order will dispose of instant bail application filed on behalf of the applicant namely, Muhammad Shafi son of Juman Khan Narejo seeks post-arrest bail, who is facing trial in Crime No.09/2022 of PS GOR, Hyderabad, registered under sections 302, 34 PPC. Earlier, bail plea of the applicant/accused was turned down by learned MCTC-I/Additional Sessions Judge-IV, Hyderabad vide his order dated 27.04.2023.

2. Background of the case is that on 21.02.2022, the complainant Saeed Ahmed lodged report at PS GOR Colony Hyderabad for the murder of his son namely Arghaman to have taken place on 17.02.2022, against two unknown person.

3. Learned counsel for the applicant has contended that the applicant/accused is innocent and has falsely been implicated in this case; that there is delay of about four days in lodgement of FIR and the same was registered after deliberation and consultation; that the FIR was lodged against unknown persons and even no feature or description of the culprit has been disclosed in the FIR; that in fact, the offense is unseen and there is no iota of evidence to connect the applicant/accused with the commission of instant offence; that there is malafide on the part of Investigating Officer who with collusion of complainant party managed the case.

Learned counsel for the applicant has prayed for grant of bail to the applicant / accused. In support of contention, he has relied upon the cases reported in 2017 YLR Note 16, 2018 P Cr.LJ 598, 2020 YLR Note 40 and 2023 SCMR 364.

4. On the other hand, learned A.P.G. Sindh as well as learned counsel for complainant have opposed the grant of bail to the applicant/accused on the ground that there is confessional statement of the applicant/accused, as such, there is no mala fide on the part of complainant. They further contended that the applicant/accused has fully narrated in his confessional statement how the deceased was murdered in brutal manner. Learned counsel for the complainant in support of his contentions has relied upon the cases reported in PLD 2009 SC 385, 2006 SCMR 1292 and 2013 SCMR 385.

5. Heard arguments and I have scrutinized the entire material available on the record.

6. Not naming the accused of murder of an innocent in the FIR by the complainant shows no mala fide on his part. The delay in lodgement of the FIR has properly been explained. The applicant/accused has specifically confessed his guilt in his confessional statement recorded by learned Magistrate, his part in the commission of offence prima facie comes within the ambit of section 109 PPC, and his confession is a perfect valid piece of evidence, which could be considered and used as circumstantial evidence by the trial Court along with other evidence. In this regard, I am also fortified with the case of *'MAMARAS v. THE STATE and others'* [PLD 2009 Supreme Court 385]. The alleged recoveries of the articles from the house of co-accused Waqas Ali Bhatti prima facie also validate the version of applicant/accused taken in his confessional statement. The offence with which the applicant/accused is charged come within the ambit of section 497 (1) Cr.P.C.

7. In view of the above, I am of the view that the applicant/accused has failed to establish his case for his release on bail. Consequently, instant criminal bail application is **dismissed**.

8. The observations made hereinabove are tentative in nature and will not prejudice the case of either party.

JUDGE

Abdullah Channa/PS