

Order Sheet
IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Crl. Bail Application No.S- **880** of 2023
(*Nazar Bhayo v. The State*)

Date of hearing	Order with signature of Judge.
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Mr. Athar Iqbal Shaikh, Advocate along with applicant.
Mr. Aftab Ahmed Shar, Additional P.G for the State.

Date of Hearing & Order: **21-05-2024**

ORDER

MUHAMMAD IQBAL KALHORO, J.- In FIR, registered on 13.06.2023 by husband of deceased Mst. Azeema, he has alleged that she was already married with one Muhammad Ali, from whom she had five children. After divorce, she got married with him, upon which her relatives were not happy and would threaten her of murder. On the day of incident viz. 12.06.2023, when his wife was in the house of her previous husband to meet her children, she called him and stated that her relatives were about to murder her. Upon which, he and his uncle PW Abdul Hameed and others rushed there, where accused Bahadur, her nephew, a son of her sister, Hussain and Nazar, a brother of her previous husband and one unknown accused armed with hatchet were present.

2. As soon as they saw complainant party, they asked them to leave the house and then within their sight at the instance of accused Hussain, present applicant and accused Bahadur armed with a pistol each fired upon Mst. Azeema hitting on vital parts of her body thus murdering her at the spot. Complainant communicated such information to the police which came and completed necessary formalities and on the next day, FIR was registered.

3. Learned counsel in defence has argued that applicant is innocent and has been falsely implicated in this case; the case is of two versions as mother of deceased has filed a Crl. Direct Complaint against the

complainant, husband of Mst. Azeema leveling allegations of murdering her, which has also been brought on record. Hence, the case requires further enquiry.

4. His arguments have been opposed by learned Additional P.G, who submits that I.O of the case in investigation has found the applicant and other accused guilty of the offence. The Crl. Direct Complaint is a pressure tactic filed to compel complainant to compromise with the accused party. It is an afterthought and has been registered by mother of deceased only to save her relatives/accused in this case. The lady was killed just because of contracting second marriage and applicant is not entitled to concession of bail.

5. I have heard leaned counsel for parties and perused material available on record. The I.O in the case has found the applicant involved in the offence in the investigation. In FIR, the applicant and co-accused Bahadur have been assigned a direct role of firing at the deceased. Postmortem report shows that she had sustained two firearm injuries that are attributed to applicant and co-accused. Witnesses in their 161 CrPC statements have also supported version of the complainant. Medical evidence also *prima facie* supports the complainant's version of the incident qua two firearm injuries on her person.

6. This application has been filed for the relief of pre-arrest bail which cannot be granted in every run-of-the-mill case. The purpose of pre-arrest bail is to save innocent person from arrest and concomitant humiliation by the police in a case, in which he has been falsely implicated. There is a force in the argument of learned Additional P.G that filing of Direct Complaint after a long delay of one month of the incident against the complainant *prima facie* appears to be a tactic to put pressure upon him to come to terms with the accused party and compromise with them. In fact, this is what the learned defence counsel has been stating before the Court on the pervious dates of hearings for seeking adjournments. Even otherwise, the simple fact of Direct Complaint, yet to stand the test of the trial, the direct role of the

applicant in the FIR in murder of deceased cannot be overlooked. In view of above facts and circumstances, I do not find applicant entitled to concession of pre-arrest bail and therefore **dismiss** this application.

7. Learned Additional P.G has pointed out at this stage that the applicant did not even join the investigation and is shown absconder in the Challan. He has made a request that since Challan has been submitted and applicant is shown absconder, he may be taken into custody and remanded to jail to face the trial, otherwise he would again disappear.

8. The request of learned Additional P.G to take the applicant into custody as he is shown as absconder in the Challan is granted in such circumstances. Applicant is taken into custody and remanded to jail to be produced before the trial Court to stand trial. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

9. This bail application is **disposed of** accordingly.

JUDGE

Ahmad