

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.**

Cr. Bail Appl No.540 of 2024

Cr. Bail Appl. No.700 of 2024

06.06.2024

M/s Aamir Mansoor Qureshi and Qadir Khan, Advocate for applicants.

Mr. Muhammad Iqbal Awan, Addl. P.G.

ORDER

MUHAMMAD IQBAL KALHORO J: Applicants Syed Habib, Muhammad Ayaz and Zeeshan are seeking post arrest bail in Crime No.672/2023 U/s 302, 34 PPC of P.S. Korangi, Karachi.

2. FIR was registered by complainant on 08.06.2023 about murder of deceased Muhammad Saleem by four unknown accused travelling in a car on 07.06.2023. Subsequently, applicants were arrested in a different crime and during interrogation admitted murder of deceased in this case. From applicant Muhammad Ayaz, crime weapon on his pointation was recovered which was then sent for forensic examination. Report of which confirmed that empty recovered from the spot and sent earlier to Lab. was fired from the same pistol. Besides CDR record of phone of applicant Muhammad Ayaz was collected that pointed out to his contact with deceased on the day of incident. Applicant Zeeshan's role was identified as arranging the car on rent on which applicants had travelled to the spot and committed offence, whereas against applicant Habib Syed, the allegations are that he had provided crime weapon to applicant Muhammad Ayaz, with which he committed murder of deceased. On the basis of such material applicants were arraigned in the case and charge sheet against them was submitted. In the trial, they filed application for bail but it has been rejected vide impugned order dated 31.01.2024.

3. Learned counsel in defence have pleaded for bail urging that the material collected against the applicants is sketchy and does not point out to their involvement in definitive terms in that although empty recovered from the spot was sent to Lab. earlier than the pistol but both were examined together. Therefore, manipulation in this regard cannot be ruled out. They have further submitted that this is case of two versions as subsequently mother of deceased had moved an application involving widow of deceased to be accomplice hiring assassins for murdering her husband. The identification of

accused took place before the I.O. and not before the Magistrate, which therefore is inadmissible. They have relied upon 2024 SCMR 205, 2022 P Cr. L J 121, 2019 YLR Note 23, 2022 YLR Note 104 (Sindh, 2023 P Cr. L J 323, 2022 YLR Note 179(Sindh), and PLD 2014 SC 458.

4. On the other hand, learned Addl. P.G. has opposed grant of bail to the applicants.

5. I have considered submissions of the parties and perused material available on record. Insofar as role of applicants Zeeshan and Habib Syed is concerned, it requires further inquiry into their involvement in the present case, for they have not been assigned any specific role for causing murder of deceased. The evidence against them is only admission of Muhammad Ayaz before the police during interrogation disclosing arrangement of a car and supply of incriminating pistol by them to him for committing murder of deceased. These pieces of evidence require determination at the trial.

6. As against this, there are atleast two pieces of evidence which prima facie connect applicant Muhammad Ayaz with present offence. The crime weapon matching with empty recovered from the spot, which when subjected to examination alongwith the pistol was found to have been fired from it and CDR report showing his contact (for finding out location of the deceased) with the deceased. In the blind cases like the present one in which the deceased was done to death by unknown accused, these pieces of evidence cannot be overlooked for prima facie determining involvement of accused in the case. Therefore, I am of the view that insofar as applicants Zeeshan and Habib Syed are concerned, they are entitled to post arrest bail. They are granted bail subject to furnishing a solvent surety in the sum of Rs.200,000/- each and P.R bond in the like amount to the satisfaction of the trial court. Whereas bail application of applicant Muhammad Ayaz is hereby dismissed.

Needless to mention that observations made hereinabove are tentative in nature and would not be prejudice case of either party at trial.

The bail applications are disposed of in the above terms.

J U D G E

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