

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No. S -304 of 2023

(Shabbir Ahmed Bozdar Vs. The State)

1. For Orders on office objection.
2. For hearing of bail application.

12-02-2024.

M/s. Qurban Ali Malano and Syed Israr Ahmed Shah advocates for the applicant.

Mr. Abdul Rasheed Kalwar, advocate for the complainant.

Mr. Aftab Ahmed Shar, Additional P.G for the State.

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Irshad Ali Shah, J;- It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object, not only committed murder of Gul Hassan by casing him fire shot injuries, but also caused fire shot injuries to PW Rahib with intention to commit his murder and then went away by making fires in air to create harassment, for that the present case was registered.

2. The applicant on having been refused post-arrest bail by learned IInd Additional Sessions Judge, Mirpur Mathelo has sought for the same from this Court by way of instant Crl. Bail Application under Section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant in order to satisfy its old enmity with him; the FIR has been lodged with delay of about 01 day; co-accused Muneer Ahmed and Hakim have already been admitted to bail by this Court; the

Kalashnikov has been foisted upon the applicant and his name even otherwise is not transpiring in roznamcha entry which was recorded by the police earlier to FIR; therefore, the applicant is entitled to be released on bail on point of further inquiry. In support of their contention, they relied upon case of *Nooruddin and another Vs. The State* (2005 MLD 1267).

4. Learned Additional P.G for the State and learned counsel for the complainant have opposed to release of the applicant on bail by contending that the applicant has actively participated in commission of the incident by causing one of the fire shot injury to the deceased; his case is distinguishable to that of co-accused Muneer Ahmed and Hakim and the entry in roznamcha, it was kept by the police on the basis of telephonic message; therefore, the complainant party has nothing to do with the same.

5. Heard arguments and perused the record.

6. As per FIR, the applicant with rest of culprits after having formed an unlawful assembly in prosecution of its common object went over to the complainant party and committed murder of Gul Hassan by causing him fire shot injuries and caused fire shot injuries to PW Rahib with intention to commit his murder. The specific role of causing one of the fire shot injury to the deceased with Kalashnikov is attributed to the applicant and on arrest from him has been secured the Kalashnikov allegedly used by him in commission of the incident; therefore, it would be premature to say that the applicant being innocent has been involved in this case

falsely by the complainant only to satisfy his enmity with him. The enmity between the parties may be there, but it may not be a reason for false involvement of the applicant in case like the present one. The delay in lodgment of the FIR by one day is well explained in FIR itself, same even otherwise could not be resolved by this Court at this stage. The case of the applicant is distinguishable to that of co-accused Muneer Ahmed and Hakim; they obviously were attributed no active role in commission of the incident. The deeper appreciation of the facts and circumstances is not permissible at bail stage. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged and no case for his release on bail is made out.

7. The case law, which is relied upon by the learned counsel for the applicant is on distinguishable facts and circumstance. In that case, the entry in roznamcha prior to recording FIR was kept by the police at the instance of the complainant party. In the instant case, entry is kept in roznmachacha by the police of its own.

8. In view of above, the instant bail application is dismissed.

Judge