

ORDER SHEET**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

Crl. Bail Application No.S-908 of 2023

(Mukhtiar Hussain @ Mukhtiar Ahmed Kalhoro Vs. The State)

1. For Orders on office objection.
2. For Orders on MA No. 7727/2023.
3. For hearing of Bail Application.

12-03-2024.

Mr. Madad Ali Shah Masumi, advocate for the applicant.

Mr. Nadeem Ahmed Malik, advocate for the complainant.

Syed Sardar Ali Shah Rizvi, Additional P.G for the State.

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1. Over ruled.
2. Granted subject to all just legal exceptions.
3. It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object committed murder of Shahzado by causing him fire shot injuries, for that the present case was registered.
2. The applicant, on having been refused pre-arrest bail by learned Ist Additional Sessions Judge/(MCTC), Khairpur, has sought for the same from this Court by way of instant Crl. Bail Application u/s 498-A 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 his old enmity with him; the FIR of the incident has been lodged with delay of about 05 hours; no specific injury to the deceased is attributed to the applicant and he on investigation has been let off by the police finding him to be innocent; therefore, he is entitled to be admitted to pre arrest bail on point of further inquiry and malafide. In support of his contention, he relied upon case of *Babar Nadeem Vs. The State through P.G Punjab and another (2020 SCMR 1253)*.

4. Learned Additional P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that he has actively participated in commission of incident by making indiscriminate firing at the deceased. In support of their contention they relied upon case of *Mst. Qudrat Bibi Vs. Muhammad Iqbal and another* (2023 SCMR 68).

5. Heard arguments and perused the record.

6. The applicant is named in FIR with an allegation that he with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object went over to the complainant party and committed murder of the deceased by causing him fire shot injuries. The deceased in all was found sustaining 15 fire shot injuries. It was indiscriminate firing; therefore, it would be hard to specify as to which of the injury was caused to the deceased by the applicant. The delay of few hours in lodgment of the FIR in case like present one was natural, same even otherwise could not be resolved by this Court at this stage. No doubt, the applicant on investigation was let off by the police by disbelieving the version of the complainant and his witnesses. It was unjustified act on the part of the police. Even otherwise the opinion of the police has got no binding effect upon the Court. It would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged and no case for grant of pre-arrest bail to him on point of further inquiry or malafide is made out.

7. The case law which is relied upon by the learned counsel for the applicant is on distinguishable facts and circumstances. In that case the

accused was abettor. In the instant matter, the applicant is alleged to have made indiscriminate firing at the deceased with rest of the culprits.

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

Judge

Nasim/P.A.