

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Cr. Bail Application No. S-683 of 2024.

Mr. Muhammad Tarique Maitlo, Advocate for applicant.  
Mr. Nadeem Ahmed Malik, Advocate for complainant.  
Mr. Zulfiqar Ali Jatui, Additional P.G for the State.

Date of hearing: **24-10-2024**

Date of order: **24-10-2024**

### ORDER

**ZULFIQAR ALI SANGI, J.-** Through instant Criminal Bail Application applicant Faiz Muhammad Kalhoro seeks post-arrest bail in Crime No.199 of 2023, registered at P.S, B-section, Khairpur under sections 302, 147, 148 & 149 PPC after his bail plea was rejected by learned trial Court vide order dated 07.05.2024.

2. The allegation against the applicant, as per FIR is that he along with co-accused had directly fired upon deceased Shahzado, result thereof, he died at the spot.

3. The bail is sought on the grounds that there appears old enmity between the parties, wherein one Hakim Ali was murdered in the year 2018 and FIR No.205 of 2018 was registered; that no specific role is assigned to the present applicant in FIR and there appear general allegations against all the accused for causing fire shots to the deceased; that the ocular evidence is not in support with the medical evidence and the recovery of crime weapon has been foisted upon the applicant. Lastly, it is contended that trial has yet not commenced due to absence of complainant and his witnesses. In support of his contentions, he relied upon cases reported in **2021 SCMR 2011, 2011 SCMR 1392, 1980 SCMR 784, 1985 SCMR 1946, 1997 SCMR 32, 2014 PCrLJ 1430 and 2014 YLR Note 66 Sindh.**

4. Bail is opposed by learned counsel for complainant as well as learned APG on the grounds that applicant is nominated in FIR with specific role of firing upon deceased; recovery of pistol has been effected

which is supported with positive FSL report and the bail application of co-accused Mukhtiar Ahmed on same set of allegations has been rejected upto this Court. Therefore, applicant is not entitled for concession of bail. To support his contentions, learned APG has relied upon **1995 SCMR 1765**.

5. Heard learned counsel for the parties as well as learned APG and perused the material available on record. From perusal of record, it reflects that incident took place on 28.05.2023 at 06.00 p.m, and the FIR was registered on the same day at 2330 hours; therefore, there appears no chance of deliberation and consultation. Further perusal of FIR reflects that applicant has been attributed role of directly firing upon the deceased and the prosecution witnesses support the case of the complainant. Moreover, the version of complainant is corroborated by the recovery of empties from the place of incident and recovery of crime weapon viz. pistol, used in the commission of alleged offence. Two empties recovered from the place of incident on sending for FSL matched with the pistol recovered from the applicant. In the similar circumstances, the Supreme Court in case of Haji Gulu Khan v. Gul Daraz Khan and another (1995 SCMR 1765) cancelled the bail granted by the High Court.

6. Furthermore, it is an admitted position that co-accused Mukhtiar on similar role has approached the trial Court for pre-arrest bail and the same was declined and such order was maintained by this Court. It is also settled principle of law that at bail stage, deeper scrutiny of material available on record is unwarranted, as that would affect the merits of the case at the trial. However, tentative assessment of material available on record prima facie connects the applicant with the commission of offence which falls within the ambit of prohibitory clause of section 497 Cr.P.C.

7. Resultantly, in view of above, this bail application is **dismissed**. The observations made hereinabove are tentative and would not influence learned Trial Court at the time of deciding the case as the same are only for deciding this bail application.

JUDGE