

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA  
Criminal Bail Application No. S-219 of 2019

Applicant : Sajjad Ghanghro s/o Andal Khan, through  
Mr. Haji Shamsuddin Rajper, Advocate

Complainant : Ghulam Yaseen s/o Ghazi Khan Ghanghro,  
through Mr. Rafique Ahmed K. Abro, Advocate

Respondent : The State, through Mr. Ali Anwar, A.P.G.

Dates of hearing : -----  
23.01.2020

Date of order : 23.01.2020  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Having been rejected his earlier post-arrest bail application bearing No. 12 of 2019 in Sessions Case No. 564 of 2018 by the learned Additional Sessions Judge, Ratodero, District Larkana vide order, dated 03.04.2019, applicant/accused Sajjad Ghanghro s/o Andal Khan through instant criminal bail application seeks post-arrest bail in Crime/ F.I.R. No. 58 of 2018, registered at P.S Ratodero, under Section 302, 114, 148, 149, 337-H(i), P.P.C.

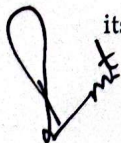
2. Briefly stated, the facts of the prosecution case are that on 25.03.2018, at 1400 hours, complainant Ghulam Yaseen lodged the aforementioned F.I.R. alleging therein that about six years back, the brother-in-law of accused Sajjad, namely, Irshad Ali Ghanghro and others had killed his closed relative Rahib Khan and such case was registered at P.S. Ratodero, thereupon accused Sajjad and others used to issue murderous threats to his relative Ibrahim and other asking them to withdraw from the case; that on 24.03.2018, at night time, he along with his father Ghazi Khan, cousin Waseem Ali, and uncle Darya Khan was going to home through common street and when they reached near to their house at 08:00 p.m., they saw

*Ant.*

accused Sajjad armed with Kalashnikov, Sarfraz, armed with repeater, Barkat, Mansoor, Akhtiar and one un-identified person with open face, all armed with pistols and Abdul Sattar empty handed; that on the instigation of Abdul Sattar, accused Sajjad and Barkat fired shots on his father Ghazi Khan who fell down and then they ran away making aerial firing; that he saw his father in serious condition, who sustained injuries over the right arm, right arm elbow, left thigh, abdomen, backside and left shoulder through and through, who was taken to Taluka Hospital but he succumbed to injuries on the way.

3. During investigation, police arrested the applicant/accused on 02.04.2018 and recovered Kalashnikov on 08.04.2018.

4. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case by the complainant due to enmity; that there is an inordinate delay of 18 hours in lodging F.I.R., which has not been explained by the complainant; that no specific role has been assigned to applicant in F.I.R., and the role assigned to him is collective with co-accused Barkat and thus it will be determine in trial who caused the fatal injury to deceased; that post-mortem report is silent with regard to weapon by which injuries were caused to deceased; that co-accused Siraj, who was implicated by the complainant in his further statement, and Akhtiar have already been admitted to bail by this Court; hence, on rule of consistency, the applicant is also entitled to the bail; that there is delay of 19 days in sending recovered empties and SMG rifle to Forensic Division, Larkana which creates serious doubts in prosecution case leading to inference that the crime empties and weapon were managed by the complainant with the help of investigation officer; that the ballistic report is itself contradictory to the ocular version, as only one Kalashnikov has been





shown in F.I.R. but the recovered empties marked as "C4 to C8" did not match with the test empty of 7.62 mm; which fact alone renders the guilt of the applicant to be one of further inquiry. In support of his contentions, learned counsel has relied on the case of Awal Khan and 7 others v. The State through AG-KPK and another (2017 S C M R 538).

5. On the other hand, learned counsel appearing for the complainant has vehemently opposed the grant of bail to applicant on the grounds that the applicant is nominated in the F.I.R. with specific role of firing at the deceased with a submachine gun/Kalashnikov; that the medical evidence and ballistic report lend sufficient support to the allegation leveled against the applicant; that police has found the applicant guilty during investigation; that there is no conflict between the ocular account and the medical/ballistic evidence, even otherwise deeper appreciation of evidence is not desirable at the bail stage; that the applicant is involved in brutal murder of the deceased, hence he is not entitled for bail. Learned counsel has relied on the case of Sohail Waqar alias Sohaila v. The State and others (2017 S.C.M.R 325), Mohsin Ali v. The State and others (2016 S.C.M.R. 1529) and Muhammad Faiz alias Bhoora v. The State and another (2015 S.C.M.R. 655).

6. Learned A.P.G while adopting arguments of learned counsel for the complainant has also opposed this application. He has added that all the eye-witnesses have fully implicated the applicant for the murder of complainant's father; that the complainant has furnished plausible explanation in lodging F.I.R. with delay of 18 hours, as he remained busy in shifting dead body to hospital and then to home after post-mortem; that police secured eight crime empties of 7.62 bore, eight of 30 bore and ten of 12 bore from crime scene; that the medical evidence and ballistic report fully corroborate the ocular account given in the F.I.R.



7. Heard the learned counsel for the parties and perused the material available on record with their assistance.


8. It appears that the applicant is nominated in the F.I.R. with specific role of making firing at the deceased along with co-accused. Delay *per se* in lodging F.I.R. is not a sufficient ground for grant of bail in a murder case. Even otherwise, the delay of 18 hours in lodging F.I.R. in the instant case has been explained by the complainant in the F.I.R. Eye-witnesses have fully implicated the applicant in their statements recorded under Section 161, Cr. P.C. It reveals from the post-mortem report that the deceased received multiple firearm injuries. Injury No.1 on the back of right side forearm; Injury No.2 bone deep on right side elbow joint; Injury No.3 deep on lateral side of left thigh; Injury No.4 on abdomen iliac region; Injury No.5 deep on back of mid chest and Injury No.6 deep on left side shoulder which went deep on back of left side chest, and as per opinion of MLO, the death of deceased caused due to hemorrhage and cardiogenic shock and injuries No.5 and 6 were sufficient to cause death in ordinary course of life. As per ballistic report, out of eight crime empties of 7.62 mm bore, three crime empties marked as "C1, C2 and C3" were fired from 7.62 mm bore SMG recovered from applicant by the police. The offence alleged falls within the prohibitory clause contained in subsection (1) of section 497, Cr. P.C., which disentitles the applicant for grant of bail. So far the argument with regards to rule of consistency is concerned, it may be seen that the case of co-accused Siraj and Akhtiar was on different footings. The name of Siraj is not mentioned in F.I.R. and it was disclosed subsequently by the complainant by way of further statement and the specific role of committing murder of the deceased by causing him fire shot injuries is attributed to applicant and co-accused Barkat while the role attributed to co-accused Siraj and Akhtiar is only to the extent of making aerial firing to create harassment.





9. From the tentative assessment of the evidence in hands of prosecution, I am of the view that prima-facie sufficient evidence is available against the applicant to connect him with the commission of alleged offence, carrying punishment for death and imprisonment for life. The case-law cited by the learned counsel for the applicant in support of his contentions is of no help, as the precedents varies from case to case depending upon the facts of each case. The Court has to examine as to whether accused has made out a case of further inquiry or not. The case of *Muhammad Faiz alias Bhoora (supra)* may be referred to in this regards. It may be observed that every hypothetical question which could be imagined would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence. Accordingly, instant criminal bail application is rejected.

10. Needless to mention here that the observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.



JUDGE