

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr.B.A.No.-S-299 of 2015

31.10.2016.

Mr. Mohsin Ali Pathan Advocate for the applicant.
Mr. Saeed Ahmed bijarani Advocate for complainant.
Mr. Syed Sardar Shah Rizvi, APG for the State.

ORDER.

Ahmed

By means of this application, applicant Manzoor ~~Ali~~ Sarki seeks bail in case under sections 302,109,148,149 PPC bearing crime No. 13 of 2013 registered with Police Station Ghulam Sarwar Sarki district Kashmore @ Kandhkot.

Allegation against the applicant is that on 19.03.2013 at about 4:00 AM he entered into house of the complainant Ali Hassan situated in village Ali Sher Sarki taluka Tangwani district Kashmore alongwith co-accused where co-accused Munir Ahmed and Fida Hussain committed murder of father of complainant namely Muhammad Soomar. As a result of which, instant F.I.R was registered against the applicant and other co-accused.

After due investigation challan was submitted in the trial court and the applicant was shown absconder therein. Applicant was arrested on 29.3.2015, and thereafter he moved a bail application before the trial court which was dismissed on the ground of his absconsion.

Learned counsel for the applicant has argued that co-accused Talib Hussain who has been attributed same role in the F.I.R, has been granted bail by the trial court vide order dated 28.5.2013 and the case of present applicant is on the same footings; that when the case of an accused otherwise is good for bail, he cannot be denied concession of the same merely because he has remained absconder. Learned counsel in this regard has referred to the case laws reported as **Mitho Pitafi v. The State (2009 SCMR 299)** and **Shafi Muhamamd v. the State (1999 P Cr.LJ 890)**.

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On the other hand, learned counsel for complainant has opposed grant of bail to the applicant on the ground that after incident the applicant had deliberately concealed himself, therefore, he is not entitled for the bail.

Learned AGP has, however, conceded to the grant of bail to the applicant on the principle of consistency.

I have considered the submissions of learned counsel for the parties and perused ^{the} the material available on record including case laws cited at the bar. Admittedly co-accused namely Talib Hussain whom same role has been assigned to in the F.I.R, has been granted bail by the trial court, and I have been informed that no application for cancellation of his bail has been filed by the complainant party so far. The case of the applicant is on same footings to that of co-accused Talib Hussain, therefore, merely on the ground that he was absconder, the concession of the bail cannot be denied to him as has been held by Hon'ble Supreme court in case of Mitho Pitafi (supra). In these circumstances I am of the view that learned APG has rightly conceded to grant of bail to the applicant. Resultantly applicant is granted bail against furnishing a solvent surety of Rs.500,000/- (Rupees Five Lac) and PR bond in the same amount to be executed before the trial court to its entire satisfaction. It is made clear that in case the applicant violates terms of bail the trial court would be at liberty take action against him in accordance with law without seeking any permission by this Court.



JUDGE 31-10-2016