

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail Application No.S-185 of 2019

Date	Order with signature of Judge
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1. For orders on office objection at flag 'A'
2. For hearing of bail application

Mr. Qudratullah Rajput, Advocate for the applicant
Mr. Abdul Rehman Kolachi, DPG

Date of hearing: 01.04.2019
Date of order: 01.04.2019

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Pre-arrest Bail Application, applicant Talib Ali son of Ali Murad Narejo has sought pre-arrest bail in Crime No.55/2018, registered at Police Station Khuhra District Khairpur, under sections 302, 34 PPC. His earlier application for grant of pre-arrest bail bearing No.474/2019 was heard and dismissed by the learned Additional Sessions-II, Khairpur vide order dated 06.03.2019. He was admitted to ad-interim bail vide order dated 26.03.2019, now the matter is fixed for confirmation of ad-interim bail or otherwise.

2. Briefly stated the facts of the case are that on 13.11.2018 complainant Abdul Razzaq son of Allah Bux Narejo lodged the aforementioned FIR alleging therein that the murderous dispute is going on between the complainant and Talib Narejo. On 12.11.2018 he along with his cousins Shah Muhammad and Abdul Jabbar and maternal uncle Ghulamullah were sleeping in the house when at about 12:15 p.m, they woke up on noise and saw (1) Rajab Ali, (2) Talib, both sons of Ali Murad Narejo, armed with pistols and one unknown person armed with K.K who asked them to sit down as they had come to kill Shah Muhammad, and saying so, accused Rajab went near to Shah Muhammad and made fire at him which hit on his left side below the nipple and he fell down, then on their cries the accused persons ran away. They took injured Shah Muhammad to Gambat Hospital where he succumbed to injury

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case; that no active role has been assigned to the applicant and only his presence has been shown at the scene, hence vicarious liability, if any, shall be



determined by the trial court after full-fledged trial, therefore, the guilt of the applicant requires further enquiry.

4. On the other hand, learned DPG has opposed this application on the ground that the applicant has been nominated in the F.I.R by name and he has shared common intention.

5. Heard learned counsel for the applicant as well as DPG and perused the material available on record.

6. It appears that although the applicant has been nominated in the F.I.R by name but so far the allegation against him is concerned, the role of firing at deceased has been attributed to co-accused Rajab Ali whereas only the presence of the applicant has been alleged at the occurrence. The question of vicarious liability of the applicant with regard to commission of his intention with co-accused Rajab for firing at the deceased and its further extension to the result that followed i.e death of deceased will have to be determined at the trial to see if guilt of applicant under section 302/34 P.P.C is established as alleged by the prosecution. However, at this stage the applicant has made out a case of further enquiry in terms of sub-section (2) of section 497 Cr.P.C, entitling him to grant of bail. Hence, interim bail granted to applicant/accused vide order dated 26.03.2019, is hereby confirmed on the same terms and conditions.


JUDGE