

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD
Criminal Bail Application No.S-1208 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.

19-12-2022

Mr. Ahsan Gul Dahri advocate for applicant.

Mr. Ali Raza Channa advocate for complainant.

Mr. Nazar Muhammad Memon A.P.G. Sindh.

MUHAMMAD IQBAL KALHORO, J: - There is ongoing murderous enmity between the parties and so many FIRs have been registered by them against each other. On the day of incident viz. 02.02.2022 complainant party was going to purchase Diesel of a Tractor on a motorcycle and car. When they reached village Shamir Khan Khoso near land of Mian Asad Unar, they were waylaid by accused party comprising four persons duly armed with weapons. Applicant was armed with a gun, he called out the complainant party and reminded them of a case already registered against him as a reason not to spare them. Thereafter from his gun he made a straight fire to cousin of the complainant Muhammad Rajib killing him at the spot. Only after the complainant party beseeched the accused party to spare them, they left the spot making aerial firing nonetheless. After registration of incident, applicant was arrested and allegedly from him crime weapon was recovered.

2. Learned defense counsel has submitted that there are counter versions between the parties and applicant has been falsely implicated in this case because he is a Head of the family, that one co-accused have been let off under section 169 Cr.P.C. and other accused have been granted bail which shows that false story has been set up by complainant. The applicant and other were injured by firearm injuries by complainant party but such aspect of the story has not been mentioned and that the whole story has been concocted. The complainant is absconder in another case, hence, he is not likely to appear in Court to give evidence. He has relied upon 2022 SCMR 547 in support of his contentions.

3. On the other hand, learned counsel for complainant and learned A.P.G. Sindh have opposed bail to the applicant relying upon the cases as PLD 2022 Supreme Court 694 and 2022 SCMR 1511.

4. I have considered submissions of the parties and perused material available on record. Applicant is specifically nominated in FIR with role of committing murder of deceased by firearm. He was arrested in investigation and from him on his pointation the crime weapon was recovered which was sent for Ballistic Expert's opinion and has been found matching with the empty recovered from the spot. It is settled that not in every case of cross-version in which from material it can be determined, *prima facie*, which party has been aggressed upon, bail can be granted to the accused who has been assigned specific role of causing murder of deceased. In this case, counter version has been registered under section 324 PPC only. The doing away of deceased by the applicant through firearm injury *prima facie* is an act of aggression which in view of the facts and circumstances as discussed above is *prima facie* established. The supporting evidence in shape of recovery and Ballistic Expert's report also points out to the involvement of the applicant. No case, therefore, has been made out for grant of bail to the applicant, which is to be assessed tentatively on the basis of material available on record. Accordingly, this application is **dismissed**. However, learned trial Court is directed to expedite the trial and examine material witnesses within a period of three months where after the applicant would be at liberty to move fresh bail application before the trial Court, which however, shall be decided on merits.

5. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE