

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
 Cr. Bail Appl No.698 of 2018

Date	Order with signature of Judge
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*Present:-*

*MR. Justice Muhammad Iqbal Kalhoro.*

*Mr. Justice Shamsuddin Abbasi.*

**For hearing of Bail Application.**

**10.08.2018.**

Mr. Muhammad Latefuddin Pasha, Advocate for applicant  
 Mr. Ali Haider Salim, DPG

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** By this order, we dispose of above bail application, whereby the applicant is seeking post arrest bail in case bearing crime No.929/2010, U/s 302, 324, 353, 34, 427 PPC, R/W 7 ATA, , registered with Police Station Preedy, Karachi.

2. As per FIR this incident took place on **17.08.2018** at about 0005 hours in front of NJV School, M.A. Jinnah Road, Karachi within the jurisdiction of Police Station Preedy, whereby, two police men namely Muhammad Nawaz, who was driver and HC Jehangir were killed by unknown persons, however, in presence of the witnesses. In the investigation, applicant was arrested on **04.10.2011** and his identification parade was held on **11.10.2011**, wherein PW Muhammad Arif and PW Muhammad Nawab identified him to be the culprit of the incident. On the basis of such evidence he was referred to for the trial U/s 173 Cr. P.C.

3. Learned defence counsel has argued that applicant is innocent and has been falsely implicated in this case; that his name is Syed Shakir Shah, whereas, in all the police papers he has been referred to as Raffay who is a different person and not the applicant. Learned Counsel has further argued that the identification parade of the applicant was not held properly and due legal formalities were not adhered to, therefore, identification parade has no value in the eyes of law. According to him, the applicant is behind bars for the last six years and still the trial has not been concluded as such he is entitled to bail. In support of his contentions, he has relied upon the case law reported in *2017 SCMR 114, 2016 SCMR 18, 2014 MLD 622 Lahore and 2011 SCMR 537.*

4. On the other, learned DPG has opposed grant of bail to the applicant on the ground that he is the same person, whose name in all the police papers has been mentioned as Syed Shakir Shah @ Rafay and he has been identified by the prosecution witnesses not only in the identification parade but PW-22 Muhammad Arif in his evidence in the Court has identified him, therefore, there is no question of mis-identification parade of the applicant. He further submits

that in the challan 25 witnesses have been cited and out of whom 22 witnesses have already been examined and the trial is at the verge of conclusion.

5. We have considered submissions of the parties and perused the material available on record. No doubt name of the applicant is not mentioned in the FIR but, subsequently after his arrest he was put to identification parade wherein PW Muhammad Arif and PW Muhammad Nawab picked him up as one of culprits of the incident in which two police men while performing their duty were killed. PW Muhammad Arif has been examined in the trial and he has supported the prosecution case and has identified the applicant. There is also no question of the applicant being the wrong person, because in all the police papers he has been shown as Syed Shakir Shah @ Rafay. The trial is at the advance stage as out of 25, 22 witnesses have been examined. To exercise discretion in favour of the applicant at this stage would be against the dicta laid down in the case reported in *2011 SCMR 1332*. There is *prima facie* sufficient evidence connecting the applicant with the offence. Learned counsel for the applicant during the arguments tried to refer to the cross examination of the witness but suffice it to say that while deciding the bail application, only tentative assessment is to be made, examining cross examination of the witnesses would amount to be a deeper appreciation of evidence, which is not permissible at bail stage. In view of foregoing, we are of the view that applicant is not entitled to the concession of bail as such his bail application is dismissed. However, since almost all the witnesses have been examined, we direct the trial court to expedite the trial and conclude it within a period of three (03) months hereof and submit such a compliance report through MIT-II of this Court.

6. The bail application is disposed of in the above terms; the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

**J U D G E**

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Rafiq/P.A.