

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Bail Appl. No.1131 of 2024
(Dilawar Khan vs. The State)

Date	Order with signature of Judge
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For hearing of Bail Application.

16.10.2024.

Mr. Irfan Ali, Advocate for the Applicant
Mr. Khawaja Muhammad Azeem, Advocate for Complainant
Ms. Rubina Qadir, Deputy Prosecutor General Sindh

ORDER

MUHAMMAD IQBAL KALHORO J: Applicant is a brother-in-law of deceased Tariq Malooq, who is younger brother of complainant. He was last seen with applicant leaving the house on a Suzuki pickup. Thereafter, he disappeared. When complainant inquired from applicant about him, he responded that his brother had left him near Scheme No.36, Karachi. Next day on 04.08.2023 his dead body was found in Edhi cold storage. It was informed to the complainant that the dead body was found in Hub canal. Initially some inquiry was made and then finally on 04.09.2023 FIR was registered against unknown accused. After FIR applicant was arrested on the basis of CDR record showing his location at the place of incident. Apart from that piece of evidence, two witnesses Sajjad Hussain and Nadeem come forward and stated that they were also present at the spot at the relevant time and had seen applicant with the deceased. According to their version of events, the deceased was completely intoxicated and was left by the applicant and co-accused Mubarak Shah in the canal. It is also stated that during the investigation applicant had accepted to voluntarily confess murder of the deceased but before the Magistrate, he backed out.

2. Learned defence counsel for the applicant has argued that there is no evidence against the applicant and the case is based on hypothesis. He has relied upon the case law reported in **2023 S C M R 1140, 2023 S C M R 364 and 2023 S C M R**

3. On the other hand, learned counsel for the complainant and learned DPG have opposed bail.

4. I have heard learned counsel for the parties and perused the impugned order. The deceased was last seen in the company of applicant leaving on a Suzuki Pickup. His dead body was found from the Hub canal and his postmortem report indicated that he was profusely intoxicated at the time of death. The CDR report of the applicant shows his presence with the applicant and co-accused at the spot. More so, two witnesses have testified in

statements u/s 161 Cr. PC that the deceased was left in Hub canal by the applicant and other accused fully intoxicated. These pieces of *prima facie* evidence show presence of the applicant and their involvement in the murder of deceased.

5. More so, it is informed that two witnesses have already been examined and the trial is likely to be concluded in a short while. In the circumstances, while dismissing this bail application. The trial Court is directed to examine remaining witnesses within a period of three (03) months. Thereafter, the applicant would be at liberty to move a fresh bail application before the trial Court, which if filed, shall however be decided on its own merits

6. Bail application stands disposed of in the above terms. The observations made hereinabove are tentative in nature and would not prejudice case of either party at trial.

JUDGE

Rafiq/P.A