

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.

Cr. Bail Appl. No.1446 of 2024
(Mushtaq Ahmed vs. The State)

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

24.10.2024.

Mr. Ghulam Akbar Uqali, advocate for applicant
Mr. Aijaz Ahmed Jumani, advocate for the complainant
Ms. Rahat Ahsan, Addl: PG Sindh

ORDER

MUHAMMAD IQBAL KALHORO J: Applicant is seeking post arrest bail in Crime No. /2024 U/s of P.S.

Complainant and accused are related inter se. It is alleged in FIR that on 06.05.2024, on account of a dispute between the parties over the affairs of their kids, applicant, Mushtaq and co-accused Ghulam Nabi instigated co-accused Masroof and Ghulam Nabi to commit murder of the complainant party upon which both the aforesaid co-accused fired from their guns on the complainant party murdering Pyar Ali and injuring two minors Imtiaz and Irshad, who have received firearm arm injuries falling u/s 337-F(2), hence, FIR.

2. Learned defence counsel has argued that applicant has been attributed a role of instigation only; that he has not performed any active role in the alleged murder of the deceased and injuries to the injured, that it is yet to be determined in the trial whether the co-accused acted under instigation and influence of applicant or not; that the co-accused, who have been assigned specific role are brother and son of the present applicant; and out of enmity his name has been inserted in the FIR. Learned counsel has relied upon the case laws reported in **2002 P Cr. LJ 707, 2004 P Cr. LJ 1753, 2008 S C M R 1436, 2004 S C M R 864, 2003 S C M R 958, 2001 Y L R 829, 2006 Y L R 3206, 2011 Y L R 384 and 2023 P Cr. L J 323** in support of his case.

3. On the other hand, counsel for the complainant and learned Addl: PG Sindh have opposed, who submit that applicant has not engaged any advocate, so far, so that the case should not proceed.

4. I have considered submissions of parties and perused material available on record. The only role attributed to the applicant is of instigation. Although he was present at the spot allegedly, but did not cause any harm to the deceased or the injured. The question whether the co-accused acted under instigation and influence of the applicant or not is yet to be determined. The applicant at

the most is saddled with vicarious liability, but this question too cannot be determined at bail stage as it requires evidence, which can only be done in the trial. *Prima facie*, applicant has not been assigned any active role in causing murder of the deceased or injuries to injured.

5. Therefore, I am of the view that the case against the applicant requires further enquiry into his guilt and he is entitled to concession of bail. Accordingly, this bail application is allowed and applicant is granted bail subject to his furnishing a solvent surety in the sum of Rs.200,000/ (Rupees two lac) with P.R. bond in the like amount to be executed to the satisfaction of the trial Court.

6. Bail application are 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

Rafiq/P.A