

*Order Sheet*  
**IN THE HIGH COURT OF SINDH, KARACHI**

Present:-

Mr. Justice Muhammad Iqbal Kalhoro.  
 Mr. Justice Kausar Sultana Hussain.

**Cr. B.A. No.1411 of 2022**

Mubashir

**Versus**

The State

**For date of hearing**  
**& order**

: **04.08.2022**

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Mr. Shah Imroz Khan, advocate for applicant  
 Mr. Siraj Ali K. Chandio, Addl: P.G. Sindh

**ORDER**

**Muhammad Iqbal Kalhoro, J:-** On 15.04.2022 at 1500 hours complainant, Muhammad Hanif Bhatti reported a matter to Police Station Surjani Town, Karachi, which occurred on 14.04.2020 wherein accused Abdullah and his 06 accomplices, out of whom 03 nominated and 03 shown as unknown on account of a previous skirmish had murdered deceased Javed Bhatti and injured 03 persons in Street No.04, House No.L-209, Sector 36-C, Taiser Town Karachi.

2. Applicant is not nominated in FIR and is said to be one of unknown persons. In interim challan also his name was not mentioned, but in the final challan on the basis of a statement of co-accused, he was referred to the court for a trial. Applicant, as soon as came to know of it, surrendered before the trial court after 02 months of incident and was taken into custody. Thereafter, meanwhile, evidence of complainant and few witnesses has been recorded, he has been identified by them to be the person, who had beaten PW Muhammad Saleem Bhatti when he was trying to remove deceased Javed Bhatti, then injured, to hospital. However, he has not specifically stated as to what injury he caused to him nor there is a proof *prima facie* in the shape of a medical certificate supporting such insinuation.

3. Learned defence counsel while arguing the case reiterated above facts and circumstances, and further has stated that co-accused Ali Khan and Saeed Umar, who like applicant were arraigned in the case on the basis of statement of co-accused with similar role and about whom complainant has given a similar statement, have been granted bail by the trial court.

Whereas, the bail of the applicant has been declined simply on the fact that his name has been taken by PWs and the complainant in evidence.

4. Learned Addl: P.G Sindh has, however, opposed bail stating that he has been specifically implicated by the complainant.

5. Admittedly, applicant's name is not mentioned in FIR nor assigned any role, let alone causing any injury to the deceased or the witnesses whose injuries are *prima facie* supported by the entries in the medical certificates. PW Muhammad Saleem Bhatti without specifying the point and giving any detail has simply stated that he had beaten him which is *prima facie* not marked by any document when he try to take his injured brother to hospital . The applicant is in jail for more than two and half years and yet the trial has not been concluded. The co-accused, who have been assigned similar role have been extended bail by the trial court. In the circumstances, applicant appears to be entitled to the same concession not only on the rule of consistency but on merits as well as his case requires further enquiry into a question as to whether or not he had a common intention with the main accused gathered at the spot to commit murder of the deceased.

6. Accordingly, this application is allowed and applicant is granted bail subject to his furnishing a solvent surety in the sum of Rs.200,000/- with P.R. bond in the like amount to be executed to the satisfaction of the trial Court.

7. 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.

JUDGE

JUDGE