

IN THE HIGH COURT OF SINDH, AT KARACHI
CrI. Bail Application No. 1179 of 2024

Present:
Justice Zafar Ahmed Rajput
Justice Ms. Tasneem Sultana

Applicant : Qaiser Miyan s/o Muhammad Sabir,
through M/s. Syed Zulfiquar Ali Shah and
Kamran Ali Jokhio, Advocates.

Respondent : The State, through Mr. Mumtaz Ali Shah,
A.P.G.

Complainant : Muhammad Tariq s/o. Siraj-ul-Islam,
through Mr. Muhammad Farooq, Advocate.

Date of hearing : 22.04.2025
Date of order : 22.04.2025

ORDER

ZAFAR AHMED RAJPUT, J:- Through listed Cr. Bail Application, applicant/accused Qaiser Miyan s/o. Muhammad Sabir seeks post-arrest bail in Crime/FIR No. 642/2023, registered under section 302, 34 P.P.C. read with Section 7 of Anti-Terrorism Act, 1997 at P.S. Docks, Karachi. His earlier application for the same relief bearing No. 153 of 2024 was dismissed by the Anti-Terrorism Court No. XIV, Karachi, vide order dated 06.04.2024.

2. Brief facts of the case are that, on 12.12.2023, complainant Muhammad Tariq lodged the aforesaid FIR, alleging therein that, on 11.12.2023 at 1740 hours, he along with his father Siraj-ul-Islam, brother Ismail and Muhammad Abdul Salam, Mehbood and Muhammad Hussain and others were busy in preparation of a political gathering at Islami Kanta, Machhar Colony, Karachi, when Qaiser Miyan (*applicant*) made a call to his father on his cell-phone, informing him that Nisar Pathan, his brother Gulzar Pathan, Inam and Mehmood-ul-Hassan were abusing him. They went to them near Umar Khatab Masjid, where Nisar Pathan and others were already present, who started abusing his father. Qaiser Miyan

was also present along with the said persons, duly armed with deadly weapons. Co-accused Mehmood-ul-Hassan fired with his pistol on the abdomen while co-accused Nisar Pathan fired with his rifle on the head of his father. Muhammad Abdul Salam and Mehboob moved forward to help his father, the accused also made firing on them. Resultantly, all said three persons died on the spot. Thereafter, accused persons fled away while making firing.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case with mala fide intention and ulterior motives; that there is no allegation of causing death of any of the deceased persons against the applicant; that the allegations against him is that of calling to complainant' father at the place of incident and his appearance at the spot when the alleged accident took place; hence, the guilt of applicant requires further inquiry; that no motive behind the alleged incident has been mentioned in the F.I.R.; that there is delay of about twenty hours in lodging the FIR and the complainant has miserably failed to give any plausible explanation for such delay; that co-accused Muhammad Inam has been granted bail by the trial Court; therefore, on the rule of consistency applicant is also entitled to the same concession; that nothing incriminating has been recovered from possession or pointation of the applicant and the alleged bullets have been foisted upon him; hence, he is entitled to the concession of bail.

4. Conversely, learned counsel for the complainant and as well as A.P.G. oppose the instant application on the ground that applicant is a nominated accused who is involved in a heinous offence carrying capital punishment and sufficient evidence is available with the prosecution to connect him with the commission of alleged offence; that the applicant failed to make out any ground for further inquiry; as such, he is not entitled to the concession of bail.

5. We have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears from the material available on record that after registration of the FIR, the applicant was arrested on 13.12.2023 by P.I Mir Muhammad Lashari of P.S. Docks, Karachi. As per prosecution case, the applicant is the person whom the father of the complainant talked on his cell-phone and then the complainant party reached the place of incident where accused party including the applicant was already present with deadly weapons. The record suggests that the applicant was the person who called the complainant party deceitfully at the place of incident, where he was present duly armed and principal accused committed *qatl-e-amd* of three persons. The applicant, thus, facilitated the principal accused to commit the alleged *qatl-e-amd*. The applicant has *prima facie* shared common intention in commission of alleged offence. From the tentative assessment of the evidence in hands of prosecution, we are of the view that prima-facie sufficient evidence is available against the applicants to connect him with the commission of alleged offence, carrying punishment for death and imprisonment for life. Accordingly, the bail application is dismissed.

7. Needless to mention here that the observations made herein-above are tentative in nature and would not influence the trial Court while deciding the case of accused on merits.

JUDGE

JUDGE