

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Crl. Bail Appln. No S-360 of 2021.

Date _____ Order with signature of Hon'ble Judge _____

1. For orders on office objection.
2. For hearing of Bail Application.

Mr. Shakeel Ahmed G. Ansari, advocate for the applicant
Mr. Ali Anwar Kandhro, Additional Prosecutor General

Date of Hearing : 13.09.2021.
Date of decision : 13.09.2021.

ORDER

Omar Sial, J.- Ali Murad Roznani Jakhrani has sought post arrest bail in Crime No.8 of 2020 registered under sections 302, 460, 337H(2), 114, 504, 148 and 149, P.P.C. at the Nabi Shah Wagan police station. Earlier, his application seeking bail was dismissed by the learned 1st Additional Sessions Judge, Shikarpur on 07.08.2021.

2. Mirzadi Eisani Rind lodged the aforementioned FIR on 08.04.2020 reporting an incident that had occurred the previous day that is 07.04.2020. She recorded that her son, Ahmadan as well as one Muhammad *alias* Janu are on inimical terms with one Sohrab Khan. On the night of 7-4-2020, she along with Ahmadan, Jurial Khan and Jang Muhammad were sleeping in their house when they were woken up by some noise. They saw 18 armed men who were all identified by the complainant. These men included the applicant. One of the intruders, Jan Muhammad *alias* Janu, told Ahmadan that you are enemies of Sohrab Khan. Jan Muhammad instigated the other accused and upon his instigation co-accused Mir Gul fired a shot from his rifle on Ahmadan. The accused left the premises resorting to aerial firing and Ahmadan subsequently died.

3. I have heard the learned counsel for the Applicant as well as the Addl. P.G. and with their able assistance perused the record. The complainant did not effect an appearance despite notice. My observations and findings are as follows.

4. No overt role has been assigned to the Applicant. Further, the only person who was alleged to have shot Ahmadan i.e. Mir Gul has admittedly been acquitted. It appears that the applicant's bail was denied by the learned 1st Additional Sessions Judge on the ground that the Applicant had joined trial after the acquittal of Mir Gul and as he was charged under section 149, P.P.C. he may still be guilty. I fail to understand the reason as to how the applicant could be guilty under vicarious liability when the main person accused of killing Ahmadan has been acquitted. A bare reading of the FIR appears to reflect an exaggerated version of events. Malafide of the complainant is also evident from the fact that though the FIR directly and solely accused Mir Gul of Ahmadan's murder, yet at trial, she and other prosecution witnesses filed their affidavits stating therein that he was innocent.

In view of the foregoing, the learned Addl. P.G. also did not raise any objection to the grant of bail and admitted that even on grounds of inconsistency the applicant was entitled to be admitted to bail.

Above are the reasons for my short order dated 13.09.2021.


13/9/21
JUDGE