

## ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
LARKANA

Criminal Bail Appln. No. S-616 of 2023

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| Applicant   | Hafeezullah s/o Yar Muhammad<br>Jaffery,<br><br>Through M/s Asif Ali Abdul<br>Razaq Soomro and Saeed<br>Ahmed Bijarani, Advocates |
| Complainant | Khadim Hussain Bajkani,<br>Through Mr. Muhammad Aslam<br>Jatoi, advocate  |
| The State   | Through Mr. Ali Anwar<br>Kandhro, Additional Prosecutor<br>General for the State  |

Date of hearing: 10-06-2024

Date of order: 10-06-2024

**MAHMOOD A. KHAN, J.-** Through instant criminal bail application, the applicant/accused Hafeezullah s/o Yar Muhammad Jaferi, seeks post-arrest bail in Crime No.48/2023, registered at Police Station Ghouspur, for the offence U/S 302, 148, 149 P.P.C, after rejection of his bail plea by the learned trial court vide order dated 17.10.2023. Whereas report stands filed from the learned trial court as called for in the earlier order.

2. There is no need to repeat detailed facts of the case, however, as per F.I.R the complainant was present at his house with his father deceased Abdullah, when the present applicant/accused along with ten other co-accused came and present applicant/accused along with other co-accused made straight fires of pistols with intention to commit murder of his father, thereafter they committed murder of his father. The role of present applicant described in the F.I.R prima facie as "Accused Hafeezullah made straight fire of pistol at my father Abdullah with intention to commit his murder which hit him at upper part of right leg."

3. Learned counsel for the applicant/accused has pointed out towards the date of incident and started his contentions that there is 52

hours delay, he has also pointed out that the distance between the place of incident to the Police Station is one K.M. Learned counsel has further contended that the place of incident is in the heart of the town, wherein the shop keepers have not been examined. He further contended that enmity is admittedly present and that the post-mortem report does not show fracture of bones as to the injury attributed to the present applicant/accused. He further contends that the report of the incident firstly made is not having any names and as per the counsel, who is associated with him. It is also stated that the present applicant/accused was not sent-up for trial and was kept in column No.2 by the prosecution, whereafter the Magistrate had included him. It is as such required on behalf of the applicant that the matter be treated as of further inquiry also considering that the son reported the incident is not required to be silent on the murder of his father made before him. Learned counsel has placed reliance upon the cases reported as *REHMAT ULLAH alias REHMAN versus The State and another* (1970 SCMR 299), *MUHAMMAD ASLAM versus The State and another* (2023 YLR Note 29)[Lahore], *NOORUDDIN and another versus The State* (2005 MLD 1267)[Karachi], *Syed AMANULLAH SHAH versus THE STATE and another* (PLD 1996 Supreme Court 241)

4. Learned Additional Prosecutor General has however, contended that specific role has been attributed to the present applicant/accused which is supported by the post-mortem report. The delay has been explained as funeral was being arranged and that the concerned Magistrate had passed the joining order of the present applicant/accused which has remained un-disturbed.

5. Learned counsel for the complainant has contended that this being bail stage, deeper appreciation is not required. He also contends that role of the present applicant is present and he has further contended that present applicant/accused is failing to proceed with the cross-examination, wherein chief has already been recorded and that the motive has been shown. He lastly contended that except for the present applicant/accused, all the other accused are absconders. In support of his contentions while opposing the bail, he has placed his reliance on the cases reported as *Ghulam Ahmed Chishti versus The State and another* (2013 SCMR 385).

*Muhammad Abbasi Vs. The State and another (2011 SCMR 1606) and Irshad versus The State (2015 YLR 2553).*

6. Heard learned counsel for the applicant, learned counsel for the complainant, learned Additional Prosecutor General and perused the material available on the record.

7. This being the bail stage, undoubtedly a deeper appreciation is not required, however, it appears from the record that specific role has been assigned to the present applicant/accused which is based upon an enmity same however being a double edge sword is of no help to the applicant. The fire arm injury attributed to the applicant is admittedly reported in the post-mortem report. Conduct of the applicant shown by the report called from the concerned Magistrate has specified the failure of proceedings with the cross-examination, the discretion in the circumstances is not found in favour of the applicant as his claimed innocence is not coming out from the record along with his restriction to the further inquiry being conducted by the learned trial court. As such the bail application stands refused. It is, however, ordered that the learned trial court is expected to make a sincere attempt to conclude the trial within a period of three months. In an event of failure, the report be submitted and the applicant is at liberty to file fresh bail application before the trial court if the trial court fails to conclude the trial within said period, if so advised and provided the fresh ground is found available.

J U D G E

Abdul Salam/P.A