

# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.605/2013

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DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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**Present: Mr. Justice Nazar Akbar**

Sohail S/o Suleman  
applicant through:

Mr. Qadir Hussain Khan, Advocate

Muhammad Irfan  
complainant,  
through:

Mr. Riaz Ahmed Bhatti, Advocate

State  
through:

Mr. Abrar Ali Khichi, Assistant  
Prosecutor General, Sindh

Date of hearing:

15.5.2014  
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**Nazar Akbar, J.** This bail application has been filed by accused Sohail son of Suleman, since the learned 1<sup>st</sup> Additional Sessions Judge, Malir, Karachi by order dated 11.4.2013 has declined his bail in FIR No.42 of 2013 under section 302/34 PPC of PS Ibrahim Haidri.

2. Very briefly the facts of the case are that the FIR was lodged on 15.2.2013 at 0300 hours regarding an incident of firing by two unidentified persons at about 2130 hours on 14.2.2013 resulting in injury to one Muhammad Yaqoob, who expired on the way to the hospital. The complainant did not prefer any postmortem and buried the deceased. It was a blind FIR and after five days on 20.2.2013, the complainant himself arrested the accused on spy information that the applicant was also involved in the offence, which resulted in the death of complainant's father and thereafter he was *challaned* on 08.3.2013.

3. After hearing learned counsel for the parties and going through the record I have observed as follows: -

- a. The applicant was neither nominated in the FIR nor any weapon used in the incident has so far been recovered from him.

- b. There is no mention of the circumstances, in which complainant came to know that accused/applicant, who is his neighbor, was involved in this case.
- c. Despite the fact that the accused was arrested by the complainant on an unidentified spy information, therefore, an identification parade was required since FIR was blind and the complainant was not eyewitness of the incident.
- d. The identification parade took place after a lapse of 14 days and during that 14 days, the accused/applicant was in the police custody.
- e. The accused is in jail for the last more a year and three months and investigation of this case has already been finalized as the challan has been submitted, thus the physical custody of the applicant is not required at this stage for the purpose of investigation.
- f. The learned counsel has relied upon the case reported in 2005 YLR 1637 and 1994 P.Cr.L.J 504. In both the cases, the High Court has held that in a case of blind FIR and unexplained delay in holding of identification parade of accused creates serious doubts in the story of prosecution and thus it becomes a case for further inquiry in terms of sub-section 2 of section 497 Cr.P.C.
- g. In the present case, the delay in identification parade of the accused/applicant by 14 days and even the arrest by the complainant, who was not an eyewitness, provides sufficient ground of further inquiry into the guilt of the accused.

4. In view of the above facts and discussion, the case of the applicant/accused requires further inquiry into his guilt. By a short order dated 15.5.2014, applicant/accused was admitted to bail subject to his furnishing solvent surety in the sum of Rs.200,000/- and these are the reasons for such grant of bail.

JUDGE