

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr.B.A.No.S-700 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
	For hearing of main case.

05.08.2018.

Mr. Nazeer Hussain Jarwar, Advocate for applicant.
Mr. Shewak Rathore, D.P.G for the State.
Mr. Ch. Aftab Ahmed Warraich, Advocate for the
complainant.

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Irshad Ali Shah J:- It is alleged that the applicant with rest of the culprits in furtherance of their common intention not only committed Qatl-i-Amd of Veer jee by causing him hatchet injuries but also caused hatchet injury to complainant Heer Jee on his left thumb with intention to commit his murder too, for that present case was registered.

2. The applicant on having been refused post arrest bail by learned Sessions Judge, Mirpur-khas has sought for the same from this court by way of instant application u/s 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party; there is delay of about 10 hours in lodgment of FIR and no injury to the deceased is attributed to the applicant. By contending so, he sought for release of the applicant

on bail on the point of further inquiry. In support of his contention, he relied upon case of ***FAKIR HUSSAIN @ BALI v. STATE and others (2014 SCMR 1502)***.

4. Learned D.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicant by contending that he has actively participated in the commission of incident by causing hatchet injury to the complainant on his thumb. In support of their contention, they have relied upon case of ***ABBAS ALI v. STATE (2014 P.Cr.L.J.1791)***.

5. I have considered the above arguments and perused the record.

6. Admittedly, there is delay about 10 hours in lodgment of FIR; same could not be over looked. Indeed, it is reflecting consultation. No injury to the deceased is attributed to the applicant. The role attributed to the applicant in commission of incident is only to the extent that he caused hatchet injury to the complainant on his left thumb which is not vital part of the body. No injury is repeated by the applicant. The parties are already disputed over issue of kids fight. In that situation, the guilt of the applicant obviously is calling for further inquiry.

7. The case law which is relied upon by learned D.P.G. for the State and learned counsel for the complainant is on distinguishable facts and circumstances. In that case, the deceased lost his life during course of robbery. In the instant case, no robbery has taken place.

8. In view of facts and reasons discussed above, by relying upon the case law which is referred by the learned counsel for the applicant, the applicant is admitted to bail subject to his furnishing solvent surety in the sum Rs.200,000/-(rupees two hundred thousand) and PR bond in the like amount, to the satisfaction of the learned trial Court.

The instant bail application is disposed of accordingly.

JUDGE.