

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

Criminal Bail Application No.S-1356 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case

08.04.2025.

Mr. Imtiaz Ali Abbasi advocate for Applicant/Accused.

Complainant present in person.

Ms. Sana Memon, Assistant Prosecutor General.

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MIRAN MUHAMMAD SHAH, J.- through this Bail Application, Applicant has sought for post arrest bail in Crime No.76/2024 registered u/s 302, 114, 504 PPC at PS Hali Road, after dismissal of her bail plea by the learned VIII-Additional Sessions Judge Hyderabad vide Order dated 28.11.2024, hence she approached this Court.

2. Brief facts of the prosecution case are that complainant Mola Bux s/o Khuda Bux, by caste Zehri Baloch, Rio House No.38, Para, Indus Glass Road, Hyderabad lodges present FIR on at 2200 hours for the incident allegedly took place on the same day a 1645 hours, contents of which are reproduced as under-

"Complaint is that I reside on the aforesaid given address alongwith my housemates and do the work of furniture. I have three sons and two daughters, out of them, Muhammad Rafique is married son who It has two boys and two girls. About one month ago, neighborer nowho Noshad Se Shamshad Abbasi took away wife of my son namely Mst. Wakeela to Court where he contracted marriage whereupon dispute was going on between my son Muhammad Rafique and Noshad Abbasi, against whom, my son filed petition in the Court of VII Additional Sessions Judge, which was fixed on 26.06.2024. Today viz 18.06.2024 my son Muhammad Rafique and Rameez Raja were sitting at the shop beneath the house alongwith Mohallah persons namely Baboo Khan S/o Ali Bux, by caste Zehri Baloch and Gehram @ Dada S/o Nabi Bux Baloch, meanwhile at about 1700 hours, on the reports of firing, I came out of the house and saw that Noshad S/o Shamshad Abbasi and his son-in-law namely Wajid S/o Haji Wali Muhammad Rajar were standing at the shop and hurling abuses to my son Muhammad Rafique, then squabble started between them, whereupon my son Rameez Raja and Mohallah persons namely Baboo Khan, Gehram @ Dada, sitting at the shop, tried to rescue them, meanwhile son of Noshad namely Sameer and wife of my son namely Mst. Wakeela @ Guddi, who contracted marriage to Noshad, arrived

there. Sameer S/o Noshad and Mst. Wakeela @ Guddi asked Noshad and his son in law Wajid Rajar not to spare them live today and kill them and at their instigation, Noshad and his son-in-law Wajid Rajar took out pistol from their folds, made direct firing upon my sons and bullets hit to my sons namely Rameez Raja and Muhammad Rafique, who sustained injuries and fell down. however, we were luckily saved We tried to apprehend them but they escaped away while making firing, then we shifted the injured to Civil Hospital in the Rickshaw but my son Rameez Raja succumbed to his injuries on the way while my second son Muhammad Rafique died at Hospital. Some person from Mohallah informed local police, who arrived, conducted necessary formalities including postmortems and after completion of such formalities, handed over the dead bodies to me for funeral and burial, which I kept at home and now I appear at Police Station and report the matter that accused Noshad and his son in law namely Wajid Rajar at the instigation of Sameer. Mst. Wakeela @ Guddi, father of Wajid namely Haji Wali Muhammad and brother of Noshad namely Rashid, who were present at the spot committed murders of my sons by making firing. Justice be done".

3. Counsel contends that the co-accused on same role have been granted bail whereas main accused who committed crime of murder and made pistol shots is behind bars. bail granting Order dated 30.09.2024 has been submitted. Operative part of the said Order is reproduced as under:-

“Perusal of record reflects that only the allegation against Applicant Wali Muhammad is of instigation while Applicant Rashid’s presence has been shown in the FIR at place of occurrence. No direct role for causing any injury to deceased is mentioned in the FIR coupled with no objection of Complainant and APG, the Applicants’ case require further inquiry, result thereof, these bail applications are allowed. The Applicants are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.100,000/- each and PR bonds in the like amount to the satisfaction of Trial Court.”

He argues that the present Applicant/Accused’s role is of similar nature and that is instigation and she also being a lady enjoys right u/s 497(1) Cr.P.C. for the concession of bail.

4. However, learned APG vehemently opposed the bail as she states that it is a case of double murder on the instigation of the present Applicant/Accused whereas her role is distinguishable as that of the co-accused No Objection was given by the Complainant, whereas, in this case that is missing.

5. I have heard both the learned Counsel as well as perused the record and in light of the Orders passed earlier by this Court, I am of the view that the case of the present Applicant is similar to that of the co-accused which is of instigation

and they have already been granted bail by this Court. In such circumstances, case of present Applicant/Accused for bail is made out, therefore, the Bail Application is allowed subject to furnishing solvent surety in the sum of Rs.100,000/- and PR Bond in the like amount to the satisfaction of Trial Court.

JUDGE

Ali Haider