

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Crl. Bail Appln. No.S-119 of 2022.

DATE OF HEARING	ORDER WITH SIGNATURE OF HONBLE JUDGE
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1. For orders on office objection 'A'.
2. For hearing of bail application.

02.06.2022.

Applicant Muhib Ali is present on bail.

Mr. Ghulam Yaseen Junejo, advocate holding brief for Mr. Nisar Ahmed Abro, advocate for the applicant.

Mr. Ali Anwar Kandhro, Addl. P. G.

Complainant Abdul Hameed is present in person.

ORDER.

MUHAMAD SALEEM JESSAR-J Through instant bail application, applicant Muhib Ali son of Gul Khan Leghari, seeks pre arrest bail in Crime No.197 of 2020 registered at Police Station K.N. Shah, for offence punishable under sections 302, 324, 337-H(2), 148, 149, 114, PPC.

2. Facts of the prosecution case as enunciated in the F.I.R are that on 23.10.2020, complainant Abdul Hameed lodged F.I.R, stating therein that his niece Mst. Seema, had contracted marriage with Sadam Hussain Leghari. Out of said wedlock she had given birth to one baby Muskan, aged bout 1 ½ years. Sadam Hussain was not happy with his neice. Mst. Seema and drove out her from his house along with baby Muskan. Father of Mst Seema had expired and they were her legal heirs, hence she was residing with him. Sadam Husain asked that he will kill his wife. On 23.10.2020, his nephew Mst. Seema, little baby Muskan, his son Rashid Ali and nephew Rafique son of Nawab were present in his house, where at about 7-45 hours, at morning time, they saw six persons entered in to his house, and they were identified them to be 1.Muhammad Yousif alias Ghulam Shabir, 2. Sadam Hussain 3. Dost Ali, 4.Muhib Ali (present applicant), 5.Amjad & 6.Gul Khan, having guns and on the force of weapons asked them to remain mum. Due to fear of weapons they remained silent. Then accused Muhib Ali instigated other accused to make fire upon Mst. Seema and kill her. On his instigation, accused Muhammad Yousif alias Ghulam Shabir made

straight fire from his pistol upon little baby Muskan, which hit her, then accused Muhammad Yousif alias Ghulam Shabir and Dost Ali caught hold with his niece, Mst. Seema then accused Sadam Hussain made straight fire upon her to commit her murder, which hit her on his left side of abdomen (Kukh), she crying fell down and blood started oozing. The accused while making aerial firing decamped from the scene. The complainant party noticed that little baby Muskan sustained fire shot injury on her left side of temple of head which went through and through. Resultantly her right eye came out and she expired. Mst. Seema had also received fire shot injury on her left side of abdomen (Kukh) and fire shot went through and through and she was seriously injured. The complainant party informed police and took dead body of little baby and injured Mst. Seema to Taluka Hospital K.N. Shah, where police after completion of all formalities, issued letter for treatment to injured, meanwhile doctor given first aid to injured Seema and referred her to Nawab Shah for further treatment. After conducting postmortem of little baby handed over dead body to complainant and F.I.R to the above effect was lodged.

3. Applicant Muhib Ali is present in person on bail; however, his counsel as intimated by Mr. Ghulam Yaseen Junejo, advocate, is out of station. Complainant Abdul Hameed Leghari, having CNIC No.41203-8284624-7, is also present. Mr. Ghulam Yaseen Junejo, who is holding brief for Mr. Nisar Ahmed G. Abro, advocate for the applicant, submits that the role against the applicant is of instigation, whereas main role of causing murder of baby Muskan is assigned to co-accused Muhammad Yousf alias Ghulam Shabir and co-accused Sadam Hussain had fired upon Mst. Seema, which landed on her left side of abdomen. He further submits that the complainant has entered into compromise, therefore, extends his no objection for grant of bail. Hence prays for confirmation of bail.

4. Learned Addl. P. G, appearing for the State, submits that he has verified the CNIC of complainant Abdul Hameed Leghari, who is present in Court, submits that the role attributed to applicant Muhib Ali Leghari is he allegedly instigated to other co-accused, which is yet to be determined by the trial Court after recording evidence of the parties, therefore, he has no objection for grant of instant bail application.

5. Heard arguments of Mr. Muhammad Yaseen Junejo, advocate, who is holding brief for Mr. Nisar Ahmed Abro, learned

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counsel for the applicant and learned Addl. P. G appearing for the State and perused the material available on record with their assistance.

6. No doubt the applicant is nominated in the F.I.R but the role assigned to him is of instigation which is yet to be established by the prosecution after recording evidence of witnesses. The main role of causing murder of baby Muskan is attributed to co-accused Muhammad Yousif alias Ghulam Shabir who is absconder and causing firearm injury to injured PW Mst. Seema, is assigned to co-accused Saddam Hussain. The case has also been challaned by the police which is now pending for trial before the Additional Sessions Judge-IV, Dadu, vide Sessions Case No.130 of 2020 re: State v. Gul Khan Leghari and others. Per progress report furnished by the trial Court, the applicant has surrendered himself and charge against him was framed on 06.7.2021 which subsequently was amended on 18.04.2022, therefore, I am of the opinion that the case against the applicant requires further enquiry within the meaning of subsection (2) of Section 497 Cr.P.C. Consequently, the bail application is hereby allowed. Interim bail granted to the applicant on 10.03.2022 is hereby confirmed on the same terms and conditions. The applicant present is directed to continue his appearance before the trial Court till final decision of the case.

M.Y.Panhwar/**