

18

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO
1st CrI. Bail Appln. No.S- 609 of 2023

Date

Order with signature of Judge

18.03.2024.

1. For orders on office objection.
2. For hearing of bail application.

Mr. Irfan Badar Abbasi, advocate for the applicant.
Mr. Aitbar Ali Bullo, DPG.
Mr. Nawabuddin Chandio, advocate for the Complainant.

ORDER.

Muhammad Saleem Jessar, J.- Through this application, applicant Bagan Khan alias Dhol son of Gul Hassan Chandio seeks his admission on post arrest bail in Crime No.06/2023, registered with Police Station Khabbar, District Kamber-Shahdadkot, under Sections 302, 148, 149, PTC. The plea of the applicant was declined by the trial Court/Additional Sessions Judge-II, Shahdadkot, vide order dated 26.09.2023. Hence, this application.

2. The facts of the prosecution case, are already mentioned in the FIR as well as bail application; hence, there is no need to reproduce the same hereunder.

3. Learned counsel for the applicant submits that the applicant has been implicated falsely in this case by the complainant party in the background of previous enmity, which is admitted in the FIR. He further submits that there is delay of 07 days in lodging the FIR, for which no plausible explanation has been furnished by the prosecution. He next submits that per FIR mere presence of the applicant is shown at the relevant time and no overt act is assigned to him in the commission of alleged offence; hence, in the background of previous enmity between the parties and delay of 07 days in lodging the FIR, the case against the applicant requires further enquiry.

5. On the other hand, learned DPG appearing for the State as well as learned Counsel for the complainant, oppose the bail application, on the ground(s) that the present applicant along with co-accused attacked upon the complainant party and he also facilitated the co-accused in committing murder of deceased, therefore, he is not entitled for concession of bail.

6. Heard learned counsel for the applicant, learned Addl. P.G. for the State as well as learned Counsel for the complainant and perused the available material.

7. From perusal of the FIR, the parties appear to be on inimical terms with each other. There is delay of 07 days in lodgment of FIR. The role assigned to the applicant in the alleged incident is of mere presence and no active part in the commission of alleged offence is assigned to him. The pivotal role of firing at and committing murder of deceased Dilbar Ali is assigned to co-accused Yaral Chandio. In the background of admitted enmity between the parties, coupled with an inordinate and unexplained delay of 07 days in lodgment of FIR and no overt act assigned to the applicant, his case requires further enquiry within meaning subsection (2) to Section 497, Cr.P.C. Consequently, instant bail application is hereby allowed. Resultantly, the applicant shall be released on bail on his furnishing solvent surety in the sum of Rs.300,000/- (Rupees three lac only) and P.R. Bond in the like amount to the satisfaction of trial Court.



Judge