

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

Cr. B.A. No. S- 566 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
25.01.2018	

For orders on office objection
For hearing

Mr. Ahsan Gul Dahri, advocate for applicant

Mr. Imdad Ali Dahri, advocate holding brief for Mr. Wali Muhammad Khoso, advocate for complainant

Mr. Shahzado Saleem Nahiyoon, D.P.G.

OMAR SIAL, J.- Applicant Adnan Ali has sought post arrest bail in Crime No. 03 of 2017 registered at the Sakrand police station in District Shaheed Benazirabad under Section 302, 114 & 34 PPC. Earlier, his bail application was turned down by the learned 1st Additional Sessions Judge, Shaheed Benazirabad on 3-7-2017.

2. The story narrated in the abovementioned FIR lodged by complainant Muhammad Yousif on 7.1.2017, is that his brother Noor Muhammad has a pizza shop close to Kainat Nagar. A few days ago, he along with his brothers and relatives were sitting at the shop when accused Irfan Ali Chohan and the Applicant came and told him that since they had earlier exchanged hot words hence they would murder Noor Mohammad. Upon the complainant party insisting that they leave, the two brothers left the scene. On the fateful day i.e. 6.7.2017 the complainant along with his above stated relatives were sitting on the said shop when at about 7:00 p.m. accused Irfan Ali Chohan and his brother, the Applicant, came and upon instigation of the Applicant, accused Irfan took out a pistol from the fold of his shalwar and fired two shots on Noor Muhammad who fell down and died. The accused ran away. Hence the above FIR was registered.

3. I have heard the learned counsel for the Applicant and the learned DPG. The complainant's counsel remained absent despite notice. My observations are as follows.

- i. The present Applicant is assigned with the role of presence and instigating the accused Adnan Ali Chohan (who is alleged to have fired at the deceased). He is not even alleged to be carrying a weapon with him. I remain sceptical about loud pronouncements of intention by persons before a crime is committed.
 - ii. Whether or not the present Applicant was present at the scene of incidence and whether or not he shared a common intention with co-accused Adnan is not clear at this stage and vicarious liability of the Applicant will have to be decided after evidence is led.
4. Above is the reason for my short order of 25-1-2016 in terms of which the Applicant was admitted to post arrest bail subject to his furnishing a solvent surety in the amount of Rs. 100,000 and a P.R. Bond in the like amount subject to the satisfaction of the learned trial court

JUDGE

karar_hussain /PS*