

Order sheet  
**IN THE HIGH COURT OF SINDH  
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 446 of 2017

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**DATED** **ORDER WITH SIGNATURE OF JUDGE**

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1.2.2018

For hearing

Mr. Ghulamullah Chang, advocate for applicant  
Mr. Hussain Bux Solangi, advocate for complainant  
Mr. Shahzado Saleem Nahiyoon, D.P.G.

**OMAR SIAL, J.-** Applicant Abdul Sattar has sought post-arrest bail in Crime No. 149 of 2015 registered under Section 302, 324 & 504 PPC, at Sehwan police station district Jamshoro. Earlier his post-arrest bail application was turned down by the learned Additional Sessions Judge, Sehwan on 10.11.2017.

2. The F.I.R. in the case was registered by complainant Muhammad Saleh on 17.10.2015. He reported that he has a matrimonial dispute with the accused Muhammad Siddique and others. On 15.10.2015, the complainant along with his sons namely Mansoor @ Gagoo, Javed Ahmed and other family members were available in their house when at about 2:00 p.m. accused Muhammad Siddique along with the Applicant and others came to the house and there was an exchange of hot words. The accused persons became annoyed and picked the arms and legs of a cot lying in the house. Accused Abdul Sattar (applicant) hit Mansoor @ Gagoo on his head with the leg of the cot. Accused Rajib Ali hit the complainant with the arm of the cot he held. Accused Siddique and Muhammad Raheem hit the complainant and P.W Javed Ahmed with the pieces of wood they held. The complainant raised screams which attracted the neighbours, hence the accused ran away. Due to above injuries son of complainant namely Mansoor @ Gagoo died.

3. I have heard the learned counsel for the Applicant, complainant as well as the learned DPG. My observations are as follows:-

- i. The learned counsel has argued on the ground of consistency. He submitted that accused Mohammad Siddique, Mohammad Rahim and Mohammad Rajab had been granted bail by the learned trial court and thus on the rule of consistency, the Applicant too be granted bail. With much respect, I do not agree with the contention

of the learned counsel. The three accused mentioned hereinbefore were not assigned the role of hitting the deceased. It is only the Applicant who is assigned the role of hitting the deceased on his head. The post-mortem report shows that the deceased died due to the injuries sustained by him on his head with hard and blunt substances. Prima facie the post mortem report seems to be reconciled with the ocular version.

- ii. The learned counsel has next argued that the incident occurred on 15-10-2015 whereas the F.I.R. was registered on 17-10-2015 and no reason for the delay has been given. He therefore argued that the Applicant is entitled to bail on this ground alone. With much respect, I do not concur with the submission of the learned counsel. The delay has been explained by the complainant in the F.I.R. Even otherwise this 2 day delay in registering the F.I.R could not form the basis for grant of bail.
- iii. The learned counsel has next argued that the parties are related inter se and thus ulterior motive on the part of the Applicant is present. The fact that the parties are related would not itself alone be a ground for the grant of bail unless perhaps there was some clear indication of malafide or enmity. This aspect of the case will have to be conclusively determined at trial.
- iv. The learned counsel has next argued that the accused party did not use any automatic weapons hence they could not have killed the deceased. With much respect and for obvious reasons, I am not convinced with this argument of the learned counsel. Suffice to say at this stage that the post mortem report shows death as having been caused due to blows of hard and blunt substances.
- v. The learned counsel has also argued that it was actually the complainant party which was the aggressor and that no independent witnesses have been cited. There appears to be no clear evidence to support the learned counsel's assertions at this stage. Both these grounds can only be decided after evidence is led in trial.
- vi. Prima facie it appears that the case of the Applicant falls within the prohibitory clause of section 497 and the learned counsel has failed to make out a case of further enquiry.

Accordingly, for the foregoing reasons, the bail application is dismissed.

JUDGE