

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

Cr.B.A.No.S-1064 of 2020

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

14.12.2020.

Mr. Tahseen Ahmed Qureshi, Advocate for
applicant.

Ms. Sobia Bhatti, A.P.G for the State.

Mr. Sikandar Ali Kolachi, advocate for complainant.

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Irshad Ali Shah J:- It is alleged that the applicant with rest of the culprit in furtherance of their common intention committed Qatl-e-amd of Yar Muhammad by causing him fire shot injuries, for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned Additional Sessions Judge-I/Model Criminal Trial Court, Umerkot has sought for the same from this court by way of instant application u/s 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party in order to satisfy its

matrimonial dispute with him; the FIR of the incident has been lodged with delay of about one day; the 161 Cr.P.C statements of the PWs have been recorded on different dates; the cloth of the deceased have not been found to be containing blood marks and co-accused Ghulam Mustafa has already been admitted to bail by learned trial Court; therefore the applicant is entitled to be released on bail on point of further enquiry. In support of his contention he has relied upon case of *Anwar Ali vs The State (2016 P.Cr.L.J 1514)* and *Juma Khan alias Sajid and another vs The State (2014 YLR 1019)*.

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to grant of bail to the applicant by contending that the applicant has actively participated in commission of incident by causing fire shot injuries to the deceased and on arrest from him has been secured the crime weapon.

5. I have considered the above arguments and perused the record.

6. The applicant is named in FIR with specific allegation that he being armed with pistol committed murder of the deceased by casing him fire shot injuries. On arrest from him

has been secured incriminating pistol. In that situation, it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party. The delay in lodgment of FIR has been explained plausibly by the complainant same even otherwise could not be resolved by this Court at this stage. The cloth of the deceased might not be found stained with blood but this fact could hardly be a reason to enlarge the applicant on bail in case like the present one. The 161 Cr.P.C statements of the PWs might have been recorded on different dates but such controversy could hardly be resolved by this Court at this stage. The case of co-accused Ghulam Mustafa is distinguishable to that of the applicant as the role attributed to him in commission of the incident was only to the extent of instigation. The deeper appreciation of the facts and circumstances is not permissible at bail stage. There appear reasonable grounds to believe that the applicant is guilty of the offence, with which he is charged.

7. The case law which is relied upon by learned counsel for the applicant is on distinguishable facts and circumstances. In case of *Anwar Ali* (supra) the accused was admitted to bail on raising of no objection by learned State counsel. In case of

Juma Khan (supra) the accused was found to be in custody for 1½ years.

8. In view of the facts and reasons discussed above, the instant bail application is dismissed with direction to learned trial Court to dispose of the very case against the applicant within three months.

JUDGE.

Ahmed/Pa