

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
Cr.B.A.No.S-1087 of 2020

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

**23.01.2021.**

Mr. Ghulamullah Chang, advocate along with  
applicants.  
Ms. Sobia Bhatti, A.P.G for the State.  
Complainant Ghulam Rasool present in person.  
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**Irshad Ali Shah J;-** It is alleged that present applicants with rest of the culprit in prosecution of their common object committed *qatl-i-amd* of Jalauddin by causing him hatchets and lathies injuries, for that the present case was registered.

2. The applicants on having been refused pre arrest bail by learned Model Criminal Trial Court-II/IVth Additional Sessions Judge, Hyderabad have sought for the same from this court by way of instant application u/s 498-A Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy its old dispute with them; the F.I.R has been lodged with delay of about one day; the 161 Cr.P.C statements of PWs are recorded with further delay of

nine days even to F.I.R; the medical evidence is in conflict with the ocular evidence; identity of the applicants under the light of torch is a weak piece of evidence; the applicants on investigation were let-off by the police and co-accused Abdul Razak alias Papoo has already been admitted to bail by this Court. By contending so, he sought for pre-arrest bail for the applicants on point of further inquiry and malafide.

4. Learned A.P.G for the State who is assisted by the complainant has opposed to grant of pre-arrest bail to the applicants by contending that they have actively participated in commission of incident by causing hatchets and lathis blows to the deceased.

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

6. The F.I.R of the incident has been lodged with delay of about 19 hours; such delay having not been explained plausibly could not be overlooked. The 161 Cr.P.C statements of the PWs have been recorded with further delay of nine days even to F.I.R which appears to be surprising. The deceased as per post-mortem report has died within one to two hours after receipt of injuries. If it was so, then it belies the complainant in his F.I.R that the deceased has died instantaneously. No injury to the deceased is attributed to the applicants specifically. The identity of the applicants under the

light of torch even otherwise is appearing to be a weak piece of evidence. The parties are already disputed. The applicants on investigation have been let-off by the police finding them to be innocent and co-accused Abdul Razak alias Papoo has already been admitted to bail by this Court. In that situation no useful purpose would be served if, the applicants are taken into custody and then are admitted to bail on point of consistency.

7. In case of *Muhammad Ramzan vs. Zafarullah and others* (1986 SCMR-1380), it was held by the Honourable Court that;

*“No useful purpose was likely to be served if bail of the accused is cancelled on any technical ground because after arrest he could again be allowed bail on the ground that similarly placed other accused were already on bail.”*

8. In view of above, the interim pre-arrest bail already granted to the applicants is confirmed on same terms and conditions.

9. The instant bail application is disposed of accordingly.

JUDGE

