

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-142 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection

For hearing of main case.

04.03.2021.

Mr. Abdul Ghafoor Rind, Advocate for applicant.

Mr. Shahid Ahmed Shaikh, D.P.G for the State.

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ORDER

Irshad Ali Shah J:- It is alleged that the applicant with rest of the culprits during course of robbery committed murder of Loung Khan alias Hajan 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 3rd Additional Sessions Judge, Shaheed Benazirabad has sought for the same from this Court by way of making instant application under section 498 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 police; none has seen the applicant committing the alleged incident and complainant Sain Dino now by filing his affidavit has recorded no objection to grant of bail to the applicant. By contending so, he sought for pre-arrest bail for the applicant on point of further enquiry.

4. Learned D.P.G. for the State has opposed to grant of pre arrest bail to the applicant by contending that he has remained in absconsion for considerable period.

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

6. The name and description of the applicant are not appearing in FIR and complainant Sain Dino by filing his affidavit before learned trial Court has recorded no objection to grant of bail to the applicant by stating therein that he is not amongst the culprits who have committed murder of his brother. In these circumstances, the guilt of the applicant obviously is calling for further inquiry.

7. In case of *Mitho Pitafi vs. The State (2009 SCMR 299)*, the Honourable Apex Court has held as follows;

---S. 497---Validity---Bail could be granted, if accused had good case for bail on merits and mere his absconsion would not come in the way while granting him bail---High Court had not appreciated the facts and circumstances of the case in its true perspective while declining bail to the petitioner---Petition was converted into appeal and same was allowed---Impugned order passed by the High Court was set aside and the petitioner was directed to be released on bail, in circumstances.

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

9. The instant bail application is disposed of accordingly.

JUDGE