

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr.B.A.No.S-14 of 2019

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

13.09.2019.

Mr. Altaf Sachal Awan, Advocate for applicant.
Ms. Safa Hisbani, A.P.G for the State.
Mr. Ayaz Ali Gopang, Advocate for the complainant.

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Irshad Ali Shah J:- It is alleged that the applicant with rest of the culprits in furtherance of their common intention have committed Qatl-i-Amd of Umed Ali by causing him fire-shot injuries and then went away by making fires at complainant Akber and his witnesses with intention to commit their murder too and to create harassment, for that he was booked and reported upon by the police.

2. The applicant on having been refused post arrest bail by learned Sessions Judge, Shaheed Benazirabad has sought for the same from this court by way of instant application under section 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 their matrimonial dispute with him, there is delay of about four days in lodgment of FIR and the applicant is in custody for about one year. By contending so, he sought for release of the applicant on bail on the point of further inquiry.

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicant by contending that the delay in lodgment of FIR has been explained plausibly, the applicant has actively participated in the commission of incident by causing fire-shot injuries to deceased Umed Ali; on arrest from the applicant has been secured the crime weapon, which has matched with the empties secured from the place of incident and it is the applicant who is defeating the trial for one or other reason. In support of their contentions they have relied upon case of ***Mst. Parveen Akhtar vs the State and others (2002 SCMR 1886)***.

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

6. The name of the applicant is appearing in the FIR with specific allegation that he with the rest of the culprits in furtherance of their common intention being armed with deadly weapons went over to the complainant party and then committed Qatl-e-Amd of Umed Ali by causing him fire-shot injuries. The specific role of causing fire shot injuries to deceased Umed Ali is attributed to the applicant. In that situation, it would be hard to say that the applicant being innocent has been falsely involved in this case by the complainant party in order to satisfy their matrimonial dispute with him. No doubt, the delay of four days in lodgment of FIR is there, but there could be no denial to the fact that it is explained plausibly in FIR itself. The deceased in first instance was taken by the complainant party in injured condition to hospital, which caused delay in lodgment of FIR. The delay in lodgment of FIR even otherwise

could not be resolved by this Court while deciding the bail application. The deeper appreciation of the facts and circumstances it is settled by now are not permissible at bail stage. The recovery of the crime weapon from the applicant could not be overlooked. The confinement of the applicant in jail for about one year in case like the present one is not enough to release the applicant on bail by making a conclusion that it is a case of hardship. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged.

7. In view of the facts and reasons discussed above, the applicant is not found entitled to be released on bail. Consequently, the instant application is dismissed.

JUDGE

Ahmed/Pa,