

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No. 487 of 2021

Date	Order with Signature(s) of Judge(s)
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For hearing of bail application.

11.02.2022

Mr. Muhammad Aslam Shar, Advocate for
applicant/accused.

Mr. Zahoor Shah, A.P.G.

Through instant criminal bail application, applicant/accused Hassan s/o. Haji Piyaro seeks post arrest bail in Crime No. 109 of 2020, registered under Section 302, 311, 120/B, 109, 34 P.P.C., at P.S. Mirpur Sakro, district Thatta. His earlier application for the same concession in Session case No. 128 of 2021 was heard and dismissed by the learned Additional Sessions Judge/MCTC, Thatta, vide order dated 26th February, 2021.

2. It is alleged that on 18th September, 2020 at 2145 hours, near Cattle Market, Mirpur Sakro-Buhara road, Thatta accused Abdullah s/o. Peer Muhammad alias Peero Chandio, Hassan s/o. Haji Piyaro (applicant), both armed with pistols, and one unknown accused stopped complainant Allah Dino s/o. Mehro Chandio, his son Khuda Bux, his nephew Shahmeer while they were travelling in a car from Karyo Ghanwar district Badin and thereafter accused Abdullah Chandio fired and caused death of Khuda Bux. As per F.I.R., the motive behind the alleged murder was annoyance of accused party with deceased on account of his love marriage with Mst. Azmat Chandio d/o. Peer Muhammad alias Peero.

3. Heard the learned counsel for the applicant as well as learned Assistant Prosecutor General and perused the material available on record.

4. It appears that S.H.O. P.S. Ghora Bari Inspector Amir Bux Khoso received information that Mst. Azmat Chandio might have been killed in

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consequence of the decision taken by the Jirga held by Molvi Muhammad Rahim, Moula Bux, Qadir Bux, Khuda Bux, Muhammad Moosa and Meer Muhammad. After getting such information, the said S.H.O. registered an F.I.R. bearing No. 58 of 2020 under Section 302, 201, 120-B, 311, 109, 34 P.P.C. The present applicant was nominated in that F.I.R.; however, he was admitted to bail by the Court of learned Additional Sessions Judge-I/MCTC, Thatta in Cr. Bail Application No. 186 of 2021 vide order dated 17.02.2021.

5. So far instant case is concerned, it is an admitted position that only the presence of the applicant duly armed with pistol has been shown at the place of occurrence; however, role of causing death to deceased Khuda Bux has been assigned to co-accused Abdullah. No overt act has been assigned to present applicant; hence, the question of vicarious liability of the applicant with regard to the commonness of his intention for the commission of the alleged offence under the circumstances will be determined at the trial; therefore, the guilt of the present applicant requires further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. Hence, instant application is allowed, and in result thereof the applicant is admitted to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 2,00,000/- (*Rupees Two Lacs only*) and PR bond in the like amount to the satisfaction of the trial Court.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

The instant Cr. Bail Application stands disposed of.

JUDGE