

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-73 of 2021

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

09.03.2021.

Mr. Muhammad Jamil Ahmed, advocate along with
applicant.
Ms. Sobia Bhatti, A.P.G for the State.
Mr. Imtiaz Ali Abbasi, 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
murder of Gul Nawaz by causing him fir shot injury, for that the
present case was registered.

2. The applicant on having been refused pre arrest bail by
learned Model Criminal Trial Court-II/IVth Additional Sessions
Judge, Hyderabad has 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 applicant that the
applicant being innocent has been involved in this case falsely by
the complainant party in order to satisfy its grudge with him; the
PWs Adnan and Khalid as per their 161 Cr.P.C statements came
after the incident, therefore, the applicant is entitled to be granted

pre-arrest bail on point of malafide. In support of his contention he relied upon case of *Qurban Ali vs The State and others* (2017 SCMR 279).

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that he has actively participated in commission of incident by causing fire shot injury to the deceased.

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

6. The applicant is named in FIR with specific allegation that he committed death of the deceased by causing him fire shot injury. 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 only to satisfy its grudge with him. PWs Adnan and Khalid might have stated in their 161 Cr.P.C statements that they attracted to the incident on hearing of fire shot, but their such assertion is not enough to disbelieve the complainant at this stage, who prima facie has involved the applicant in commission of incident. The deeper appreciation of the facts and circumstances is not permissible at bail stage. No malafide is apparent of the record, which may justify admitting the applicant to pre-arrest bail. 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 learned counsel for the applicant is on distinguishable facts and circumstances. In that case there was counter version of the incident and role attributed to the applicant was only to the extent of Lalkara. In the instant matter there is no counter version of the incident and role attributed to the applicant is of causing fire shot injury to the deceased.

8. In view of above, it could be concluded safely that no case for grant of bail to the applicant is made out. Consequently, the instant bail application is dismissed.

JUDGE