

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-132 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
1.	For orders on office objections.
2.	For hearing of main case.

12.07.2021

Syed Shafique Ahmed Shah, Advocate for the applicant.
Ms. Sobia Bhatti, A.P.G for the State.
Mr. Muhammad Akram Rajput, Advocate for the complainant.

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ORDER

Irshad Ali Shah J:- It is alleged that the applicant with the rest of the culprits after having formed an unlawful assembly and in prosecution of their common object by making trespass into house of complainant Ameer Bux committed death of Murtaza, Majno, Zulfiqar alias Bhutto, Mst. Jado, Mst. Gulabi and Mst. Samreen and then went away by causing fire shot injuries to PW Mst. Shakeela with intention to commit her murder too, for that present case was registered.

2. The applicant on having been refused post arrest bail by learned 1st Additional Sessions Judge(MCTC), Matiari has sought for the same from this Court by way of making instant application u/s 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 its grudge with him over love marriage of Mst. Nasreen; the name of the applicant has been disclosed first time by the complainant in his further statement; no specific role in commission of incident even otherwise is attributed

to the applicant and co-accused Mithal Khan has already been admitted to bail by this Court, therefore, the applicant is entitled to his release on bail on point of further inquiry. In support of his contention, he relied upon cases of *Zulfiqar Vs. The State and others* [2020 SCMR 417] and *Mukarram Khan Vs. The State and others* [2020 SCMR 956].

4. It is contended by learned A.P.G for the State and learned counsel for the complainant that the applicant has actively participated in commission of incident by making indiscriminate firing upon the complainant party as a result whereof six innocent persons have lost their lives while seventh one has sustained fire shot injuries; on arrest the applicant has been subjected to identification parade before Magistrate through PWs Rahib and Nazeer and from him has been secured the pistol used by him in commission of incident and same has been found matched with the empties secured from the place of incident and his case is distinguishable to that of co-accused Mithal Khan, therefore, he is not entitled to his release on bail. By contending so, they sought for dismissal of the instant bail application.

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

6. No doubt the name of the applicant is not appearing in the F.I.R, but there could be made no denial to the fact that it was disclosed subsequently by the complainant by way of further statement. On arrest, the applicant has been subjected to identification parade before Magistrate through PWs Rahib and

Nazeer and from him has been secured pistol allegedly, used by him in commission of incident. 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. It was the case of indiscriminate firing; therefore, it would be immaterial to say that no specific role in commission of incident is attributed to the applicant. The case of the applicant is distinguishable to that of co-accused Mithal Khan, simply for the reason that the role attributed to him in commission of incident was only to the extent of conspiracy/abatement. 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 by learned counsel for the applicant is on distinguishable facts and circumstances. In case of Mukarram (*supra*) no recovery was made from the accused. In the instant case recovery of crime weapon from the applicant is made. In case of Zulfiqar (*supra*) the accused was admitted to bail mainly for the reason that it was opined by the investigating officer that his role in commission of incident is only to the extent of abatement. No such opinion in respect of the applicant is arrived at by the police.

8. In view of the facts and reasons discussed 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 with an advise to learned Trial Court to expedite the disposal of very case preferably within three months after receipt of copy of this Order.

JUDGE