

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 227 of 2022

Applicant : Babar Khan s/o Razaib Khan, through
Mr. Salahuddin Khan Gandapur, advocate

Respondent : The State, Ms. Rahat Ehsan, Additional
Prosecutor General.

Complainant : Muhammad Ashraf s/o Muhammad Tahir
Shah through Mr. Muhammad Nawaz
Tanoli, advocate

Date of hearing : 30.05.2022

Date of order : 30.05.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier Bail Before Arrest Application bearing No. 106 of 2022, arising out of Crime/F.I.R. No. 775 of 2021, registered at P.S. Jamshed Quarter, Karachi under Sections 302, 334, 34, P.P.C. by the Court of 1st Additional Sessions Judge, Karachi-East vide order dated 25.01.2021, applicant/accused Babar Khan s/o Razaib Khan through instant application seeks the same concession from this Court. He was admitted to interim pre-arrest bail by this Court vide order, dated 02.02.2022, now the matter is fixed for confirmation or otherwise.

2. It is alleged that, on 13.12.2021 at 7:00 a.m. co-accused Bakht Buland and Yousuf Rehman (*both are brother inter se*) in furtherance of their common intention committed *qatl-i-amd* of Mst. Zaib-un-Nisa and Muhammad Haroon (*the sister and brother of the complainant and wife and brother-in-law of co-accused Bakht Buland, respectively,*) by causing them pistols shots/injuries in and outside house No. 129, situated near Sunehri Masjid, Patel Para, Karachi. Co-accused Yousuf Rehman also caused firearm shots/injury to Muhammad Anwar (*brother of the complainant and brother-in-law of co-accused Bakht Buland*) inside said house, while present applicant facilitated said co-accused by driving the car wherein they fled from the place of occurrence, for which the accused persons were booked in the instant case.

3. After hearing the learned counsel for the applicant, complainant and learned Additional Prosecutor General as well as perusing the material available on record it appears that only the presence of present applicant has been shown at the occurrence with empty handed. Motive of the murder, as per complainant, was annoyance of the co-accused Bakht Buland with his said deceased wife over matrimonial dispute. The complainant has not alleged anywhere the anger of the present applicant, as such, *prima facie*, the applicant had no motive to take part in the occurrence. The allegation against the applicant is that he facilitated co-accused persons to flee from the place of occurrence after committing alleged double-murder by driving the car; hence, the question of vicarious liability of the present applicant with regard to the commonness of his intention for committing alleged offence under the circumstances will be determined at the trial.

4. In the circumstances of the case mentioned above, I have found the case against the applicant one of further inquiry into his guilt, as envisaged under subsection (2) of Section 497, Cr. P.C.; hence, the interim bail already granted to the applicant vide order dated 02.02.2022 is confirmed on the same terms and conditions.

5. 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

Cr. Bail Application stands disposed of.

JUDGE