

**IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 2380 of 2021

Applicant : Ayub Khan s/o Alam Khan, through  
M/s. Hassan Yar Khan Bilal & Azhar Hussain  
Advocates.

Respondent : The State, through Mr. Faheem Hussain  
Panhwar, D.P.G. alongwith complainant  
Rashid Hussain.

Date of hearing : 07.04.2022  
Date of order : 07.04.2022

-----  
**ORDER**  
-----

**ZAFAR AHMED RAJPUT, J.-** Applicant/accused Ayub Khan s/o Alam Khan on being unsuccessful in getting relief of post-arrest bail, vide order dated 27.10.2021, passed by the Additional Sessions Judge-I/M.C.T.C. Malir, Karachi in Cr. Bail Application No. 4438 of 2021, through instant application seeks the same concession from this Court in Crime/F.I.R. No. 129 of 2021, registered at Police Station Sachal, Karachi under section 302, 380, 34, P.P.C.

2. It is alleged that, on 30.01.2021 at about 7:00 to 8:00 p.m. applicant committed *qatl-i-amd* of deceased Tariq Hussain in House No. R1-14, situated in Shaheed Makhdoom Bilawal Village, Scheme No. 33, Karachi and also robbed his motorcycle alongwith its original registration documents, L.C.D. and cash of Rs.5,300/- from the said house.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in the case by the complainant with mala fide intention and ulterior motives due to previous enmity; that there is unexplained delay of three days in lodging of F.I.R.; that the name and description of the applicant is not mentioned in the F.I.R.; that there is no direct or indirect evidence available with the prosecution against the applicant to connect him with the commission of allege offence except CCTV footage; that the applicant was a friend of the deceased and both were working together, who came

alongwith deceased at his house on the day of alleged incident and after dropping him went back to his house; that there is no independent witness of the alleged incident; that nothing incriminating has been recovered from possession or pointation of the applicant and the alleged crime weapon and robbed articles have been foisted upon him; therefore, it is a fit case of further inquiry entitling the applicant to the grant of bail.

4. On the other hand, learned Deputy Prosecutor General has opposed the instant application on the grounds that the applicant is involved in a heinous offence carrying capital punishment; that the applicant has been identified through CCTV footage to be present at the place of alleged incident; that sufficient material is available with the prosecution to connect the applicant with the alleged offence; as such, he is not entitled to the concession of bail.

5. Heard learned counsel for the parties and perused the material available on record.

6. It appears from the perusal of the record that on the day of alleged incident deceased came to his house alongwith applicant and after some time the applicant left the said house on the motorcycle of the deceased with his L.C.D., which fact has been ascertained by witness Allah Dad in his 161, Cr.P.C. statement. The presence of the applicant at the place of alleged incident has also been proved through CCTV footage installed on the nearby house, while the CDR also affirms the presence of the applicant at the place of occurrence alongwith deceased. The applicant was arrested on 07.02.2021 and on his pointation police recovered crime weapon i.e. *Churri* as well as robbed articles i.e. motorcycle with registration documents and L.C.D. , while the medico-legal report also confirms that the deceased died due to "*cardiorespiratory failure secondary to neurogenic and hemorrhagic shock resulted by hard & blunt and sharp edge weapon*". The delay in lodging of F.I.R. is well explained and since the F.I.R. has

been lodged against unknown person, there appears no mala fide, ill-will and any element of deliberation and consultation to implicate the applicant falsely.

7. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the commission of alleged offence; hence, he is not entitled to concession of bail.

8. For the forgoing facts and reasons, I dismiss this criminal bail application. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

Above are the reasons of my short order dated 07.04.2022.

JUDGE

Athar Zai