

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Cr. Bail Application No. S – 252 of 2020**

Date	Order with signature of Judge
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**For hearing of bail application**

1. For orders on office objection at flag 'A'
2. For hearing of bail application  
(Notice issued)

**24.08.2020**

Syed Jaffer Ali Shah Advocate for the Applicant/accused  
Mr. Ghulam Rasool Chandio Advocate for complainant  
Mr. Shafi Muhammad Mahar, DPG for the State

**ORDER**

**Aftab Ahmed Gorar, J-** Through instant Criminal Bail Application, the applicant/accused Muhammad Sulleman S/o Ghous Bux Chandio, seeks post-arrest bail in Crime No.94/2019 registered at Police Station, Tando Masti Khan, for offences punishable under Sections 302, 337-H(2), 147, 148 and 149 PPC.

2. The facts of the prosecution case, in brief are that on 30.10.2019 complainant Ghulam Muhammad Chandio lodged the FIR at police Station, Tando Masti Khan, that on 29.10.2019 in the evening time, after having free, he along with his brother Rajib Ali alias Muhammad Aslam, Ali Sher, Asif Ali, it was 4:30 pm, when they reached near village Ghous Bux Chandio over the bridge of Lalan Shakh, where they were intercepted by accused Jani Beg alias Jani Bux with Spade, Abdul Hussain with hatchet, Sulleman with gun (present applicant), Imam Bux with Gun, Sain Bux and one unknown person with T.T.Pistols and all the accused persons caught hold of his brother Rajib Ali alias Muhammad Aslam from his arms and neck and dragged him inside their house, they (complainant party) tried to rescue him, but the accused persons having weapons controlled

them, as such they remained silent, whereas, in their presence, accused Jani Beg alias Jani Bux caused Spade blow to his brother on his left side head; accused Abdul Hussain also caused hatchet blow on his head and left knee, as such he collapsed on the ground, while accused Sulleman (present applicant), Imam Bux, Sain Bux and unknown accused made aerial firing just to cause harassment and disclosed that there was an old annoyance over the exchange of money and escaped away. Thereafter, complainant and P.Ws went over Rajib Ali alias Muhammad Aslam, who was dead, hence such FIR was registered, as stated above.

3. The applicant on having been refused post-arrest bail by the Court of learned 3rd. Additional Sessions Judge, Khairpur vide order dated 06.05.2020 hence he has preferred the instant bail application.

4. It is contended by learned counsel for the applicant/accused that the applicant/accused is innocent and has falsely been implicated in this case due to enmity; that there is delay of one day in lodgment of the FIR which has not been plausibly explained; that as per FIR the role of aerial firing is attributed to the applicant/accused just for the purpose of harassment but no specific overt act has been attributed to applicant/accused; that all the P.Ws are related, inter se, hence they are setup; that the applicant/accused is in jail since arrest and case has been challaned, no fruitful result will be achieved to keep the applicant/accused in jail for indefinite period, therefore, he prayed for grant of bail to the applicant/accused. In support of his contentions, he has relied upon the case of ***Mukaram vs. The State and another (2020 SCMR 956)***.

5. Learned counsel for the complainant and learned DPG appearing for the State have opposed for grant of bail to the applicant/accused by contending that the applicant is nominated in

the FIR with specific role that he duly armed with Gun made aerial firing at the time of incident and facilitated the co-accused namely Jani Beg alias Jani Bux and Abdul Hussain, who have brutally murdered the deceased Rajib Ali alias Muhammad Asalm by causing him Spade and hatchet injuries on his head and other parts of the body, therefore, he is vicariously liable.

6. I have heard the learned counsel for the parties and perused the record. As per FIR, it is alleged that co-accused Jani Beg alias Jani Bux and Abdul Hussain caused spade and hatchet blows to the deceased Rajib Ali alias Muhammad Aslam, resultantly, who died at the spot. The role of aerial firing is attributed to the present applicant/accused along with two other accused persons and at the most his case falls under the scope of vicarious liability, which is to be determined by the trial Court after recording evidence. In these circumstances the case against applicant/accused calls for further enquiry in terms of sub-section (2) of Section 497 Cr.P.C. Accordingly, the instant bail application is allowed and applicant/accused is admitted to post-arrest bail subject to furnishing solvent surety in the sum of ***Rs.200000/- (Two lac)*** and PR bond in the like amount to the satisfaction of learned trial Court.

7. The observations made herein above are tentative in nature and would not prejudice the case of either party at trial.

Judge