

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail. Appln. No.S- 374 of 2020

Date	Order with Signature of Hon'ble 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

04.09.2020

Mr. Muhammad Ali Napar Advocate along with Applicant
Mian Mumtaz Rabbani Advocate for the complainant
Mr. Zulfiqar Ali Jatoi, Additional PG for the State

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Aftab Ahmed Gorar, J:- Through instant Criminal Bail Application, the applicant/accused Ghulam Raza S/o Ghulam Qasim Chachar, seeks pre-arrest bail in case / crime arising out of FIR No.22 of 2019 registered at Police Station Sangrar, District Sukkur for offences punishable under Sections 302, 324, 504 PPC.

2. The facts of the prosecution case are that on 13.12.2019 at 1500 hours, complainant Rehmatullah Chachar lodged his FIR at Police Station, Sangrar, stating therein that on 12.12.2019 he along with his brothers Muhammad Yousuf, Ghulam Akber and little kids were available in the lands for the purpose to drove-out the locusts, whereas, his daughter Mst. Irshad alias Dilshad was also present there, when it was 2:45 pm, when all of a sudden there came accused Ghulam Raza with Gun, Ahsan and Abdul Jabbar with hatchets and they used abusive language by saying that why you did not leave the lands, hence you would not be spared. Out of them,

accused Ghulam Raza made direct fire from his gun with intention of murder, which hit girl Irshad alias Dilshad aged 8/9 years, she raised cries and collapse on the ground, thereafter, they entreated the accused persons in the name of Almighty Allah, hence the accused runaway, hence the injured girl was shifted to Civil Hospital Rohri, she was referred to Civil Hospital Sukkur and ultimately the injured girl succumbed to the injuries. Thereafter the complainant went to Police Station and lodged the report.

3. It is contended by learned counsel that the applicant/accused is innocent and has been falsely implicated by the complainant in the instant case; there is delay of one day in lodgment of the FIR for which no plausible explanation has been furnished; that the presence of the complainant and witnesses is also doubtful, because when the accused party challenged the complainant and PWs then how the fire was received by the girl; that the complainant has admitted in the FIR that there was previous enmity with him and the accused party, therefore, the false implication of the applicant/accused cannot be ruled out; that there is contradiction in the version of the complainant and 161 Cr.P.C statements of the witnesses; that the complainant and witnesses namely Muhammad Yousuf and Ghulam Akber have also entered into compromise and have sworn their affidavits on stamp paper; that the complainant in his further statement has also given contradictory version by stating that the deceased sustained cartridge injury due to blast of cartridge lying in debris which were set on fire by the kids; that during investigation the applicant/accused was declared innocent, hence the complainant himself has appeared before the

learned Magistrate and has moved an application by stating therein that the dispute has been resolved between him and the applicant/accused, even then the cognizance was taken in the matter; that there is *malafaide* on the part of the complainant to implicate the applicant in the instant case. He lastly prayed that under the above stated circumstances, the interim pre-arrest bail granted to the applicant/accused vide dated 09.07.2020 may be confirmed on same terms and conditions.

4. Learned Additional PG for the State and learned counsel appearing for the complainant opposed for grant of pre-arrest bail by contending that the complainant in his FIR has specifically named the present applicant that he made direct fire from his gun, which hit the girl Irshad alias Dilshad, she succumbed to her injuries in the hospital; that the complainant and P.Ws have supported each other on all counts of the incident; that the ocular version is fully supported by the medical evidence; the delay of one day in lodgment of the FIR has been properly explained by the complainant.

5. I have heard the learned counsel for the applicant/accused, learned counsel for the complainant, learned Additional PG for the State and also gone through the record. The name of the applicant is appearing in FIR with specific allegation that he with rest of the culprits committed "*Qatl-e-Amd*" of deceased Mst. Irshad alias Dilshad aged about 8/9 years by causing her fire shot injuries. 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 on account of their previous enmity. The enmity between the parties may be there, but it may not be reason for false

involvement of the applicant in the present case at the cost of one innocent girl of 8/9 years. Perusal of material further reveals that on investigation, it might have been concluded by the police that the applicant has not participated in commission of the offence actively or effectively but there could be made no denial to the fact that such opinion of the police is not enough to disbelieve the version of the complainant and his witnesses. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged, which entails capital punishment. In view of above, while considering the facts and circumstances of the case, it could be concluded safely that no case for grant of pre-arrest bail to the applicant is made-out. Consequently, the interim pre-arrest bail already granted to the applicant/accused dated 09.07.2020 is hereby recalled and surety is discharged. The applicant/accused Ghulam Raza S/o Ghulam Qasim Chachar, who is present on interim pre-arrest bail is taken into custody and remanded to Central Prison-I Sukkur with direction that he shall be produced before the trial Court on each and every date of hearing in the aforesaid crime. Copy of this order be sent to learned trial Court for information.

6. The bail application stands dismissed.

Judge