

**THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-1090 of 2022.

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objection.

For hearing of main case.

18.11.2022.

Mr. Naeem Uddin Sahito and Mr. Muhammad Faisal Bawany
advocates for applicant.

Mr. Zaheer Ali Soomro advocate alongwith complainant.

Mr. Nazar Muhammad Memon, Additional PG.

Applicant is present on ad-interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORO, J:- This FIR has been registered by duty officer ASI Abdul Hakeem posted at PS Matiari on 25.02.2022 at 1430 hours on receipt of information on phone from one Abdul Rasheed reporting murder of his son namely Zaheer Hussain and Mst. Rukhsana @ Rukhsar, niece of co-accused Khalid on his lands where they were present to release water from watercourse to their lands.

Learned defence counsel has argued that the applicant is innocent and has been let off by the police in investigation u/s 497(i) CrPC; co-accused Khalid has made confession before Magistrate concerned stating that he had committed murder of both the deceased after seeing them doing immoral activities on the lands; applicant was present in the mosque at the time of incident; there is delay of two days in registration of FIR, hence, the case against applicant requires further inquiry and he is entitled to concession of bail.

On the other hand, learned Additional PG and learned counsel for complainant have opposed bail stating that this is a double murder case and 161 CrPC statements of witnesses have supported the story narrated in the FIR; applicant was present on the spot and he has facilitated co-accused in murdering the deceased; he has been let off by the police only on statements of caste-fellows and no independent witness has been cited as a defence witness.

I have considered submission of parties and perused material available on record. Applicant is specifically nominated in the FIR to have caught hold of deceased Zaheer, facilitating the other accused to commit his murder. This is a double murder case, effect of judicial confession of co-accused cannot be appreciated at this stage while deciding an application for bail. There is prima facie evidence against the applicant in shape of 161 CrPC statements of witnesses who were present at the spot. In presence of such evidence the applicant is not entitled to concession of extra-ordinary pre-arrest bail which is meant only to save an innocent person from arrest in a non-bailable offence which is otherwise requirement of law. Further, police report letting off applicant is not binding upon the Court and the Court after appraising material available on record is competent to take cognizance of offence against the let-off accused. Accordingly the bail application is dismissed and ad-interim pre-arrest bail granted to him vide order dated 19.10.2022 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE