

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
Criminal Bail Application No.S-157 & 158 of 2022

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DATE	ORDER WITH SIGNATURE OF JUDGE
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05.09.2022

Mr. Sajjad Ahmed Chandio advocate for applicants along with applicants on ad-interim pre-arrest bail.

Mr. Imtiaz Ali Abbasi advocate for complainant along with complainant.

Mr. Shawak Rathore, D.P.G.

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**MUHAMMAD IQBAL KALHORO, J.-** On 16.04.2021 at 1210 hours Complainant's father Akbar @ Akkan and Ghulam Haider Laghari, while coming to this court at Hyderabad with PWs Ghulam Rasool and his son Arshad Ali to respond to an application for transfer of the case, riding on two motorcycles, were intercepted by the accused including applicants riding on a motorcycle, and in a car on Hyderabad-Matiari Road near Dargah Mast Ali Shah. They then after alighting from their respective vehicles directly fired upon complainant's father and Ghulam Haider killing them on spot. Complainant reported the matter on 17.04.2021 at 0300 hours to the police.

2. Learned defense counsel pleading their case for bail has submitted that applicant Muhammad Hanif's name is not mentioned in FIR nor in 161 CrPC statements. But he was substituted with accused Hassan named in FIR through a further statement of complainant recorded after 10 days of the incident on 26.04.2021; he is a police constable, and his presence at his duty at Thatta is confirmed from his signature on Muster Roll as well as comments of SSP Thatta in a revision application filed by accused for reinvestigation of the case; the Call Data Record (CDR) also verifies his presence at Thatta on the day of incident.

3. Regarding the case of Faheem Haider he has made the same arguments: plea of alibi that he being police constable was present in SSP Office at Thatta on the day of incident. Further, he has stated that no specific role has been assigned to any of the accused; general allegations have been leveled; it is highly unlikely

that the accused committed murder of two persons but left unscathed the other persons to become the eyewitnesses against them. He in support of his arguments has relied upon the case law reported as 2011 SCMR 902, PLD 2021 Supreme Court 898, 2016 SCMR 18, PLD 1998 Supreme Court 97, 2020 SCMR 935, 2020 SCMR 423, 2012 SCMR 184, 1995 SCMR 1350, 2011 SCMR 161, PLD 2012 Supreme Court 222, 2021 YLR Note 115 and 2008 SCMR 1556.

4. On the other hand, learned counsel for complainant and Deputy Prosecutor General Sindh have opposed bail to the applicants stating that there is no mistaken identity of applicant Muhammad Hanif, he is also known as Hassan Haider and his name is clearly mentioned in FIR. But in order to remove ambiguity, a further statement of complainant was recorded disclosing his name as is known. The documents submitted by the applicants in favour of plea of alibi could not be verified by the IO in investigation as no one from the office of SSP Thatta was ready to give statement in favour thereof. The applicants are specifically nominated in this case and there is no element of malafide on the part of complainant in implicating them in double murder case.

5. I have heard submissions of parties and perused the case law relied in defense. Complainant is not the eyewitness but there are two eyewitnesses of the incident namely Ghulam Rasool and Arshad Ali who have, in detail, described the incident in their 161 CrPC statements recorded on the day of registration of FIR. They have identified applicants with the role of firing resulting in death of two persons. Regarding controversy over name of Muhammad Hanif as Hassan, two official letters i.e. Suspension Order dated 19.04.2021 of SSP Thatta and Show Cause Notice dated 19.04.2021, submitted by learned counsel for complainant, show that he is also addressed as Hassan, the name stated in FIR. The documents about his plea of alibi, the investigating officer could not verify and he in detail has described as to how Muhammad Hanif has come to be known as Hassan and son of Qurban Ali Laghari who is actually his uncle and had raised him after death of his father in 1994 when he was still a toddler, and given him his name.

6. Regarding role of two applicants namely Faheem Hyder and Mohsin Ali, although plea of alibi has been raised, but there is no satisfactory substance in this respect which may render the prosecution story doubtful prima facie or introduce an element of malafide on the part of complainant to implicate them in the case of double murder. Supporting evidence, in the form of recovery of empties etc. from the spot, has further prima facie lent support to what has been alleged in FIR against applicants. The applicants are seeking relief of pre-arrest bail which is extraordinary in nature and is meant to protect innocent people from arrest in a non-bailable offence, otherwise required in law, in which he has been implicated by the complainant out of *mala fide* and *ulterior motives*. There is no material to show that in the present case applicants have been implicated in this case as such. The grounds taken by them entail deeper appreciation of evidence, an exercise not warranted in bail matters.

7. In view of above, I do not find the applicants entitled to extraordinary concession of pre-arrest bail and dismiss their pre-arrest bail application. Resultantly, ad-interim pre-arrest bail earlier granted to the applicants vide orders dated 14.02.2022 is hereby recalled.

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

JUDGE