

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

Criminal Bail Application No.S-624 of 2022.

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objection.
For hearing of main case.
For hearing of M.A. No.4760/2022.

05.09.2022.

Mr. Muhammad Aleem Arain advocate for the applicant.
Mr. Shawak Rathore, Deputy Prosecutor General, Sindh.
Applicant is present on ad-interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Applicant alongwith co-accused named in FIR, on 26.10.2013 over previous enmity duly armed with fire arm weapons viz. pistols and Kalashnikovs assaulted relatives of complainant in Street of Saint Paul School Tando Jam in front of shop of Gul Bahar and killed two persons namely Hayat Chandio and Ghulam Abbas. In the investigation co-accused were arrested while applicant absconded and was shown as such in Challan. After a full-fledged trial co-accused were acquitted by learned trial Court vide judgment dated 11.01.2020. Applicant chose to surrender in the Court after said judgment and was granted ad-interim pre-arrest bail. However on 30.04.2022 when final order was reserved to be announced at 12 noon, applicant disappeared and order of rejecting his bail was announced in his absence and notice to his surety was issued.

Applicant's counsel has referred to acquittal of co-accused vide above judgment as a ground for bail, which learned DPG has however opposed stating that applicant has been assigned specific role of firing at deceased killing two persons at spot; no case for extra-ordinary relief is made out and since he has been declared proclaimed offender and had disappeared at the time of announcement of order, he may be taken into custody.

After hearing parties and perusing the material available on record, I am of the view that applicant is not entitled to extra-ordinary concession of pre-arrest bail. He is nominated in FIR with

the role of having made direct fires upon deceased killing them on the spot. The evidence and findings of learned trial Court recorded in the judgment cannot be appreciated at this stage, requiring only tentative assessment of the material, as it is prerogative of trial Court to appreciate the evidence deeply and make an opinion about its impact on the merits of case. Applicant's abscondence seen with merits of the case prima facie lends extra support to the allegations against him and is a circumstance, not ignorable at stage of deciding entitlement of the applicant to the relief of pre-arrest bail, can be considered against him.

Extra ordinary relief of pre-arrest bail is meant only to protect innocent persons implicated in the case by the complainant on account of motives base and ulterior. The case here is on different footings as there is sufficient evidence against the applicant. No case for pre-arrest bail is made out. Accordingly, the bail application is dismissed and ad-interim pre-arrest bail granted to the applicant vide order 20.05.2022 is hereby recalled. Since he is a proclaimed offender and learned DPG has requested to take him into custody. He is taken into custody and remanded to Central Prison Hyderabad to be produced before trial Court on the next date of hearing.

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

JUDGE

Irfan Ali