

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Bail Application No. S-38 of 2023

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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For hearing of Bail Application
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13.02.2023

Mr. Dewan Dhanraj, Advocate for the applicant.

Mr. Syed Sardar Ali Shah, Additional P.G for the State, along with complainant Rehmatullah.

ORDER
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ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier criminal post-arrest bail application bearing No. 01 of 2023 by the learned IInd Additional Sessions Judge, Naushero Feroze, vide order dated 03.01.2023, applicant/accused Hajan s/o Gul Muhammad seeks same concession through instant criminal bail application in Crime No. 78 of 2022, registered at Police Station Kandiaro under sections 302, 506(2), 337-H(2), 504, 34, P.P.C.

2. It is alleged that, on 18.03.2022 at 06:00 p.m., the applicant fired upon complainant party to restrain them from coming near; thereafter, his brother co-accused Gul Hasan made straight fire at his wife/sister of the complainant, namely, Mst. Rubina with intention to commit her *qatl-i-amd*, which hit on her back and she fell down; she was taken to hospital by the complainant party where she succumbed to injuries, for that complainant Rehmatullah lodged the aforesaid FIR, on 21.03.2022, after funeral ceremony of his sister. Motive behind the alleged murder was annoyance of the co-accused Gul Hasan at the deceased, as she refused to grant him permission to contract second marriage.

3. After hearing the learned counsel for the applicant, learned A.P.G. and perusing the material available on record with their assistance, it reflects that the applicant is nominated in the FIR with specific role of facilitator. During course of investigation, police recovered two empties of 30-bore pistol from the crime

scene. Police has also recovered pistol on the pointation of the applicant, which was sent to FSL, and the matching report of one empty is positive. The unnatural death of the deceased is supported with medical report. The alleged offence has taken place in the house of co-accused Gul Hasan. The applicant resides in adjacent house; he was seen by the complainant and eye-witnesses, namely, Qabool and Muhammad Rafique in the house of co-accused Gul Hasan duly armed with pistol; he made fire at complainant party to restrain them coming forward, while principal accused Gul Hasan committed *qatl-i-amd* of the deceased by making fire on her back; thus, the applicants facilitated the principal accused to commit alleged *qatl-i-amd*.

4. So far the contentions of learned counsel for the applicant regarding three-days delay in lodging of FIR and sending the recovered pistol for FSL are concerned, the delay in lodging FIR is plausibly explained by the complainant in the FIR that he lodged the same after funeral ceremony of her sister, while the delay in sending the pistol for FSL can be explained by the concerned official/witness during course of trial. Such delay *ipso facto* is no ground for grant of bail.

5. From the tentative assessment of the evidence in hands of prosecution, I am of the view that prima-facie sufficient evidence is available against the applicant to connect him with the commission of alleged offence, carrying punishment for death and imprisonment for life. Accordingly, instant bail application is dismissed.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the Trial Court while deciding the case of the applicant/accused on merits.

JUDGE