

**IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR**

Crl. Bail Application No.S- 446 of 2022

Applicant : Irshad Ali Sahito through Mr. Shafi
Muhammad Bango, Advocate.

Respondent : The State through Mr. Zulfiqar Ali
Jatoi, Additional P.G.

Date of Hearing : **05th June, 2023**
Date of Decision : **05th June, 2023**

ORDER

Omar Sial, J: Irshad Ali has sought post arrest bail in crime number 46 of 2022 registered under sections 302, 148 and 149 P.P.C. at the Mirwah police station. Earlier, his application seeking bail was dismissed on 07.09.2022 by the learned 2nd Additional Sessions Judge, Khairpur.

2. The aforementioned F.I.R. was registered on 16.03.2022 on the complaint of Ms. Khursheed, who reported an incident which had occurred the previous day. Khursheed recorded that she was the second wife of a man named Barkat Ali Khaskheli. Her brother had a civil dispute with his nephew named Ashfaque Khaskheli. On 15.03.2022, the complainant claims that she was going on a motorcycle with her husband and that they were accompanied by 2 other acquaintances named Ali Gohar and Ghulam Mohammad, who were on another motorcycle. They were all intercepted by 6 men who were armed. 5 of those persons were identified by the complainant while the sixth was unknown. One of the identified men, Dilshad, got off the motorcycle and shot at Barkat Ali, who subsequently died.

3. I have heard the learned counsel for the applicant and the learned APG. The complainant was present however no counsel effected an appearance on her behalf. My observations and findings are as follows.

4. I find it rather unusual that a domesticated lady from a rural area has so accurately identified all but one of the assailants together with their parentage. It is also alleged by the mother of the deceased that it is the complainant herself who has killed her son and that none of the nominated accused were involved. The fact that there is a one day delay in the lodging of the F.I.R. and that no reason has been given for this delay, in light of the foregoing circumstances, raises doubts whether what is recorded in the F.I.R. is the correct story or whether a manipulated version has been given after consultations. Be that as it may, the role of the applicant, even by the version given by the prosecution, is one of presence and no overt role has been assigned to him. It will have to be determined at trial that even if Dilshad was guilty of an offence under section 302 P.P.C., whether the applicant shared a common intention with him or not. At the moment the case against the applicant is one of further inquiry.

5. The applicant is admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs, 100,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.