

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S- 406 of 2022

Applicant : **Abdul Hanan** through Mr. Sikandar Ali Junejo, Advocate.

Complainant : **Ahmed Khan** through Mr. Muhammad Rehan Khan Durrani, Advocate.

The State : Through Mr. Khalil Ahmed Maitlo, Deputy Prosecutor, General.

Date of Hearing : **09<sup>th</sup> June, 2023**

Date of Decision : **16<sup>th</sup> June, 2023**

## ORDER

**Omar Sial, J.**: Abdul Hanan has sought post arrest bail in crime number 46 of 2022 registered under sections 302, 452, 337-H(ii), 337-A(i), 337-F(i), 148, 149 P.P.C. at the Bhiria Road police station. Earlier, his application seeking bail was dismissed by the learned 2<sup>nd</sup> Additional Sessions Judge, Naushero Feroze on 01.08.2022.

2. A background to the case is that the aforementioned F.I.R. was registered on 27.05.2022 on a complaint made by Ahmed Khan who reported an incident that occurred earlier that day. Ahmed reported that his nephew named Nisar Ahmed who resided with him had an altercation with Gulzar Kalo and others which had angered Kalo's friend Ali Madad. In the afternoon, Ali Madad (with a pistol), Gulab (with a Kalashnikov), Gulzar (with a pistol), Zameer (with a pistol), Nadeem

(with a repeater), Majeed (with a shotgun), Hanan (with a pistol) and 15 to 20 other persons entered the house of the complainant. Ali Madad and Zameer Kalo opened fire at nephew Nisar, whereas the others beat him with the iron rods and hatchets which they carried. Nisar Ahmed died subsequently.

**3.** I have heard the learned counsels for the applicant and the complainant as well as the learned APG. My observations and findings are as follows.

**i.** No specific or overt role has been assigned to the applicant. He is said to be one of the 27 persons who had come to the house of the complainant. Upon a tentative assessment it seems rather unusual that 23 fully armed men came to kill one person. There seems to be more to the story than what had been revealed in the F.I.R., which no doubt will be revealed at trial. At the moment however I am unable to exclude malafide on the part of the complainant to throw the net wide. Whether the applicant was even present on the spot and whether he shared a common intention with the 2 men said to have fired at, and killed Nisar, will have to be proved at trial when evidence is recorded. At the moment the case against the applicant appears to be one of further inquiry.

- ii.** Prima facie there also appears to be evidence in the shape of a School Leaving Certificate issued to the applicant by Dawn Academy High School in Naushero Feroze that shows the applicant having been born on 10.08.2007. If the Certificate is genuine, this would mean that the applicant is 16 years of age currently and was 15 years when the incident occurred. He would also be entitled to leniency on the ground of being a juvenile.
- 4.** For the above reasons, the applicant is admitted to bail subject to his furnishing a solvent surety in the sum of Rs. 50,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court. The learned trial judge shall ensure that the age of the applicant is determined, and if found to be a juvenile, provisions of the Juvenile Justice System Act, 2018 are complied with.

**JUDGE**