

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. D – 109 of 2023

(Shahdad Narejo versus The State)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **25.01.2024**

Date of decision : **25.01.2024**

Mr. Miran Bux Shar, Advocate for applicant/accused.

Mr. Ghulam Rasool Narejo, Advocate for complainant, who has filed a statement along with photo stat copies of FIRs.

Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

ORDER

Muhammad Iqbal Kalhoro, J. – Applicant along with ten other accused, duly armed with deadly weapons including Kalashnikovs, guns etc., barged into the house of complainant on the night of 02.09.2023 at about 0515 hours on account of previous enmity, in which allegedly applicant party had already murdered three family members of the complainant, fired at complainant party and killed father of complainant, namely Mehrab Ali. The role of causing fire is attributed to co-accused, whereas applicant is said to have fired in the air at the time of incident to deter other family members from mounting any resistance.

2. The case of applicant for bail, as per learned Counsel for applicant, is based on the ground that he has not been assigned any active role / caused any injury to the deceased and has been implicated in the case due to previous enmity, admitted in FIR. In support, he has relied upon the cases of Subeh Sadiq alias Saabo alias Kalu v. The State and others (2011 SCMR 1543), Ehsan Ullah v. The State (2012 SCMR 1137), Muhammad Irfan v. The State and others (2014 SCMR 1347), Majeed v. The State (2020 YLR Note 51), Jahanzeb and others v. State through A.G. Khyber Pakhtunkhwa Peshawar and another (2021 SCMR 63) and Anwar Shaheen and another v. The State and another (2021 SCMR 1032).

3. His arguments have been opposed by learned Counsel for complainant and learned Deputy Prosecutor General, who has submitted that the recovery of empties from place of incident viz. 14 spent bullets of Kalashnikov, 23 spent bullets of G-3 and 16 empty cartridges support the

allegations *prima facie*. The former has relied upon the cases of Muhammad and others v. The State (PLD 1962 Supreme Court 450), Amir Hussain and 6 others v. The State (1971 P Cr. L J 297), Zaheer alias Fauji v. The State (2002 P Cr. L J 1114), Jan Muhammad v. Abdul Latif and 3 others (2003 MLD 72), Umed Ali v. The State (2005 YLR 3217), Muhammad Rafique and 4 others v. The State through Advocate-General (2008 P Cr. L J 351), Muhammad Imran and others v. The State (2008 P Cr. L J 1555), Muhammad Usman and others v. The State (2010 MLD 850), Shoukat v. The State (2010 MLD 1137) and Abdul Hakeem v. The State (2010 MLD 1608).

4. We have considered submissions of parties, perused material and taken guidance from the case law cited at bar.

5. In our view, applicant, at this stage, is not entitled to the concession of bail. He was part of an unlawful assembly comprising eleven accused, armed with deadly weapons, who during wee hours of night, stormed into the house of complainant and killed his father. The same party of accused, sans applicant although, had already murdered three members of the complainant party in a previous incident, for which an FIR has already been registered. This incident happened allegedly on complainant party's refusal to withdraw the said case in response to the pressure by the accused party. Applicant being armed with a weapon trespassing on the house of the complainant and firing in the air in support of his accomplices makes him, *prima facie*, active member of unlawful assembly. His role is further supported by the recovery of huge quantity of empties from the place of incident, which shows that it was not a doing of one person but a group of persons, committing the offence collectively.

6. In view of above, this application is **dismissed**. However, trial Court is directed to expedite the trial and examine material witnesses within a period of three (03) months. After which, in any case, the applicant would be at liberty to move a fresh bail application before the trial Court, which shall decide the same in accordance with law, independent of the previous orders including the present one.

The bail application stands **disposed of** in the above terms.

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