

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

**Cr. Bail Appln. No. S – 295 of 2023**

---

---

DATE

ORDER WITH SIGNATURE OF JUDGE

---

---

**Hearing of bail application**

1. For orders on office objection at Flag 'A'
2. For hearing of bail application

**02.10.2023**

Applicants Muhammad Moosa, Qalander Bux and Muhammad Ali are present on bail  
Mr. Aftab Ahmed Shar, Additional Prosecutor General for State

=====  
**ORDER**  
=====

**MUHAMMAD IQBAL KALHORO, J.-** As per FIR, complainant and his brother were available in village Muhammad Ibrahim Chang on account of death of their maternal grand-father, when on 18.10.2022 in the evening time brother of complainant Mansoor Ahmed went outside. At about 8:45 pm complainant heard a fire shot and went running to the spot along with his maternal uncle and when they reached near village Ishaque Shar, they saw three unidentified persons coming from there, who seeing the complainant party fled away. The complainant party saw deceased Mansoor Ahmed lying dead having a fire arm injury on his temple. There were other minor injuries on different parts of his body.

2. Applicants' Counsel is called absent despite a last chance given to the applicants on the last date of hearing, hence I have heard the applicants in person, who have claimed to be innocent and near relatives of the complainant.

3. Complainant's Counsel is absent and on his behalf Mr. Nusrat Hussain J. Memon, Advocate holding brief who has opposed the bail.

4. Learned Additional PG for the State has submitted that the FIR was registered against unknown assailants on 21.10.2022 after three days of the incident. On 07.11.2022, complainant and PWs gave a further statement nominating the applicants as accused on the basis of some source which they did not disclose. On 02.12.2022 after more than one and a half month of the

incident PWs Muhammad Sabir and Muhammad Yakoob were introduced in the case, who in their statements under Section 161 CrPC, revealed that they had seen the applicants committing the offence but under the threat from them they did not disclose this fact to the complainant or the police. He, therefore, states that the case is one of further inquiry.

5. I have heard the parties and perused the material available on record. The applicants are close relatives of the complainant and known to him since his child hood. His statement in FIR is that he had seen three unknown persons on the day of incident *prima facie* is not in consonance with such facts. It is also pointed out that post-mortem shows that deceased was alive for 15/20 minutes, whereas, complainant had claimed in FIR that when they arrived at the spot, they found the deceased already dead. The witnesses who have identified the applicants to be culprits of the offence surfaced only after one and a half month of the incident. The explanation for delay in hearing the voice of conscience to become witness given by them *prima facie* does not appeal to the common sense that under the threat they kept mum and then, for no apparent reason, came out of fear and gave the statement implicating the applicants. All these questions require further inquiry and false implication of the applicants cannot be ruled out.

6. In view of such facts and circumstances as enumerated above, this bail application is allowed, the interim pre-arrest bail already granted to the applicants by this Court vide order dated 11.05.2023 is hereby confirmed on same terms and conditions. The observations are tentative in nature and shall not prejudice the case of either party in the trial.

7. The applicants are directed to attend the trial Court regularly. However, the trial Court is directed to proceed with the case expeditiously and concluded the trial within a period of four months. The bail application is accordingly disposed of.

Judge

ARBROHI