

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S- 243 of 2024

10.06.2024.

Mr. Abdul Aziz Pali, Advocate for Applicant.
Mr. Haji Khan Jamali, Advocate for Complainant.
Ms. Sana Memon, A.P.G for State alongwith SIP
Muhammad Ameen Keerio PS Khadhar.

ORDER

MUHAMMAD FAISAL KAMAL ALAM, J.- Applicant Shaman Brohi has filed this Post Arrest Bail Application in Crime No.66/2023 registered at Police Station Khadhar for offences under Sections 302, 506/2, 114, 147, 148, 149 PPC.

2. It is contended by learned Counsel for the Applicant that there is a delay of almost two days because the incident of murder is of 20.09.2023 at 0800 hours and the report thereof is lodged on 22.09.2023 at 1200 hours; contended that this is un-seen incident because the picture of Deceased shows that his eyes were opened and if the complainant and other persons were present there they should have closed the eyes; further contended that although the Government Hospital is near but the Complainant side took hours to take him to the Hospital for Postmortem. In support of his contentions, learned Counsel has placed reliance on the case law reported as **Abdul Razzak Brohi v. The State** (2021YLR Note 82) wherein bail was granted in a murder case.

3. This Bail Application is opposed by learned Counsel for Complainant, who attempted to explain the delay, by stating that funeral

arrangements were made and after completing medical examination, the FIR was lodged.

4. Learned A.P.G has also opposed this bail by referring to official record, *inter alia*, that the medical report has stated that death was caused due to firearm injury; that delay in FIR is due to the fact that after the Postmortem and completing other formalities, the FIR was lodged; that crime weapon / pistol alongwith empties has been recovered from the Applicant / Accused at the crime scene.

5. Arguments heard and record perused.

6. The conclusion of Postmortem report is that death was caused due to injuries caused by discharge of firearm weapon.

7. The incident is happened in broad day light which is witnessed by Complainant Party. The Applicant / Accused alongwith his other accomplices came at the field duly armed with lathi and pistol and after threatening the Deceased Mahi Khan Jamali, opened fire from the pistol which caused the death of the latter. Case law cited by Applicant's Counsel is distinguishable because the bail was granted on the ground that no role was attributed to the applicant / accused (of the reported case).

8. In view of the above facts, wherein specific role is attributed to the Applicant / Accused together with recovery of crime weapon, in my considered view is not entitled for concession of bail. Consequently, this Bail Application is dismissed.

9. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either Party at the trial.

JUDGE

Tufail