

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S- 819 of 2023
(*Muhammad Bachal Thebo v. The State*)

M/s Sohail Ahmed Khoso and Abdul Qadeer Khoso, Advocates for the applicant.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State along with SIP/ I.O Mushtaque Ahmed and ASI Muhammad Daim Narejo of P.S, Kotdiji. Complainant is present in person.

Date of Hearing & Order: **19-02-2024**

ORDER

MUHAMMAD IQBAL KALHORO, J.: FIR was registered on 01.07.2022 at 2030 hours for an incident which occurred on the same day at 0100 hours, in which aunty of complainant, namely, Mst. Hameedan was murdered by six accused including the applicant, named in FIR, after committing house trespass, on account of previous enmity, when she was sleeping in her house, situated in village Gul Hassan Thebo, Taluka Kotdiji-Khairpur.

2. During investigation, applicant was arrested on 12.07.2022 and from him on 21.07.2022, a pistol was recovered which was then sent to forensic lab along with two empties recovered from the spot on 01.07.2022. The pistol allegedly matched with the empties. Earlier Crl. Bail Application No.S-597 of 2022 filed by co-accused Allah Bux and Wahib Bux was granted by this Court vide order dated 22.09.2023 on the statement of I.O that they were in fact innocent, but on account of pressure from high-ups at the instance of complainant, he had challenged them. It is also a part of record that complainant has already compromised with Rab Nawaz, a co-accused against whom similar role of firing at the deceased has been alleged by him.

3. Learned Deputy P.G for the State and complainant have opposed bail on the ground that there is *prima facie* evidence against applicant as the pistol from him has matched with the empties recovered from the spot.

4. In FIR, general role of firing at the deceased is attributed against six persons duly named therein. However, only two empties were recovered from the spot which *prima facie* is incongruous with the story of FIR. In investigation, as per statement of I.O, some of the accused with direct role of firing at the deceased were found innocent but referred to the Court for a trial only under the pressure of complainant. The empties were recovered on 01.07.2022 but were sent to Ballistic Expert along with the pistol allegedly recovered from the applicant on 21.07.2022, which is against the rule dictating that as soon as empties are recovered, they shall be sent immediately independent of the pistol to maintain transparency and to avoid maneuvering in creating incriminating evidence. Sending of pistol and empties together and the positive report, therefore, requires determination, which can only be undertaken at the stage of trial. Applicant is in jail and is no ore required for further investigation. Further, despite directions vide order dated 22.09.2023, to examine material witnesses, the trial Court has not made any progress.

5. Accordingly, this bail application is **allowed** on the grounds, as above and the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of **Rs.200,000/- (Two Lac)** with P.R bond in the like amount to the satisfaction of the trial Court. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE

Ahmad