

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No. S - 842 of 2023

(Niamatullah Mubejo Vs. The State)

Hearing of bail application

1. For orders on MA No.7145/2023 (Ex.A)
2. For hearing of bail application

04-03-2024.

Mr. Pervaiz Ali Maitlo, advocate for the applicant.
Mr. Ghulam Ali Bozdar, advocate for the complainant.
Mr. Aftab Ahmed Shar, Additional P.G for the State.

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Irshad Ali Shah, J;-It is alleged by the prosecution that the applicant with rest of the culprits in furtherance of their common intention committed murder of Khalid Hussain by causing him fire shot injuries and then went away by insulting complainant Ghulam Shabbir, for that the present case was registered.

2. The applicant on having been refused pre-arrest bail by learned Sessions Judge, Naushahro Feroze has sought for the same from this Court by way of instant bail application u/s 498 CrPC.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party in order to satisfy its grudge with him; the FIR of the incident has been lodged with delay of about one day; the incident has taken place in a manner other than the one, which is disclosed by the complainant in his FIR, therefore, the applicant is entitled to be admitted to pre-arrest bail on point of further inquiry and mala fide, which is opposed by learned Additional PG for the State and learned counsel for the complainant by contending that the applicant has actively participated in commission of incident by causing fire shot injuries to the deceased at his abdomen and has remained in absconsion for about two years. In

support of their contention they relied upon case of *Awal Gul Vs. Zawar Khan & others* (PLD 1985 SC 402).

4. Heard arguments and perused the record.

5. The applicant is named in FIR with specific allegation that he with rest of the culprits went over to the deceased and committed his murder by causing him fire shot injuries. The specific role of causing fire shot injuries to the deceased on his abdomen is attributed to the applicant. In that situation it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant only to satisfy its grudge. The complainant party may be having a grudge with the applicant but it may not a reason for his false involvement in the present case at the cost of life of a young man. The delay in lodgment of the FIR by one day is well explained in FIR itself; it was natural in the circumstances of the present case, same even otherwise could not be resolved by this Court at this stage. It would be immaterial to say that too at the instance of the applicant that the incident has taken place in a manner other than the one as is disclosed by the complainant. The deeper appreciation of facts and circumstances even otherwise is not permissible at bail stage. The applicant after committing the incident preferred to go in unexplained absconson for about two years and by that act he defeated the recovery of crime weapon from him, such activity on his part could not be lost sight of. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged and no case for grant of pre-arrest bail to him is made out.

6. In view of above, the instant bail application is dismissed; consequently, the applicant who has remained as absconder for considerable period is taken into custody to be produced before learned trial Court for proceeding of his case in accordance with law.

Judge

Nasim/P.A