

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 20 of 2024

(*Mohan Marecho Vs. The State*)

For hearing of Bail Application

02-04-2024.

Syed Murad Ali Shah, advocate for the applicant.

Mr. Mumtaz Ali Jahangir Lashari, advocate for the complainant.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

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Irshad Ali Shah, J;- It is alleged that the applicant with rest of the culprits in prosecution of their common object take away Shankar a boy aged about 12/13 years; committed his murder and then thrown his dead body in abandoned place to cause disappearance of evidence to save themselves from legal consequences, for that the present case was registered.

2. The applicant on having been refused bail by learned Ist Additional Sessions Judge/ (MCTC) Khairpur; has sought for the same from this Court by way of instant Crl. Bail Application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case by the complainant party; the FIR of the incident has been lodged with delay of more than one month and none has seen the applicant committing the death of the deceased; therefore, he is entitled to be admitted to bail on point of further inquiry, which is opposed by learned Deputy P.G for the State and learned counsel for the complainant by contending that the

deceased was seen in the company of the applicant lastly by PW Teekam and he has confessed his guilt before the police.

4. Heard arguments and perused the record.

5. The FIR of the incident has been lodged with delay of more than one month; such delay having not been explained plausibly could not be over looked. None indeed has seen the applicant committing the death of the deceased. It was PW Teekam, who intimated the complainant that he has seen the deceased going with the applicant and others on their motorcycle. His 161 Cr.P.C statement has been recorded with further delay of one day even to FIR, which suggests his introduction in investigation. Last seen evidence itself is weak type of evidence. The extra judicial confession by the applicant before the police in terms of Article 39 of Qanun-e-Shahadat Order, 1984, could hardly be used as evidence against the applicant. The parties are already disputed over matrimonial affairs. The case has finally been challaned and there is no likelihood of absconsion or tampering with the evidence on the part of the applicant. In these circumstance; a case for release of the applicant on bail, on point of further inquiry obviously is made out.

6. In view of above the applicant is admitted to bail subject to his furnishing solvent surety in sum of Rs.200,000/- (two lacs) and P.R bond in the like amount to the satisfaction of learned trial Court.

7. The instant bail application is disposed of accordingly.

Judge