

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 103 of 2024
(*Madad Ali Gadani Vs. The State*)

1. For Orders on office objection.
2. For hearing of Bail Application

02-04-2024.

M/s Shabbir Ali Bozdar and Badaruddin Memon, advocates for the applicant.

Mr. Muhammad Ali Napar, advocate for the legal heirs of the deceased Ali Akbar.

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

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1. Over ruled.
2. It is alleged that the applicant with rest of the culprits in prosecution of its common object beside causing fire shot injury to baby Ume Kalsoom with intention to commit her murder, committed murder of Ali Akbar and Mst. Zeenat by causing them fire shot injuries on allegation of *Karap*, for that the present case was registered.

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

It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police on the allegation of conspiracy/abatement of the incident, otherwise he has nothing to do with the alleged incident; therefore he is entitled to be released on bail on point of further inquiry. In support of their contention they relied upon the case of *Muhammad Arshad and another Vs. The State (2019 SCMR 572)*.

Learned Deputy P.G for the State and learned counsel for the legal heirs of deceased Ali Akbar have opposed to release of the applicant on bail by contending that he being conspirator/abettor of the incident is equally liable for the commission of the incident. In support of their contention, they relied upon the case of *Mamaras Vs. The State and others (PLD 2009 SC 385)*.

Heard arguments and perused the record.

The FIR of the incident has been lodged by ASI Ihsan Ali Shaikh on behalf of the State, it does not indicate availability of the applicant at the time of incident; he has been involved in commission of the incident on the basis of allegation of conspiracy/abatement of the incident which requires determination at trial. The parties were found disputed over matrimonial affairs. The case has finally been challaned and there is no likelihood of absconion or tampering with the evidence on the part of the applicant. In these circumstances; a case for release of the applicant on bail, on point of further inquiry obviously is made out.

The case law which is relied upon by learned DPG for the State and learned counsel for legal heirs of deceased Ali Akbar is on distinguishable facts and circumstances, it is earlier in time to case law which is relied upon by learned counsel for the applicant and moreover in that case the accused was involved in commission of the incident on the basis of judicial confession of co-accused which was found to be circumstantial evidence against him under Article 143 of Qanun-e-Shahdat Order, 1984.

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.

The instant bail application is disposed of accordingly.

Judge

Nasim/P.A