

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

Criminal Bail Application No. S-1044 of 2024

**30.09.2024.**

Mr. Hyder Ali Maheri, Advocate for applicant.

Ms. Sana Memon, A.P.G for State along with SIP Rano Khan Mashori, Special Branch, Hyderabad and ASI Illahi Bux PS Sakrand.

None present for complainant.

**ORDER**

**ZAFAR AHMED RAJPUT, J.-** Through instant Criminal Bail Application, applicant/accused Ghulam-u-Din son of Bashir Jalbani seeks post arrest bail in Crime No.26/2024, registered at Police Station Sakrand under section 302, 337-A(i), F(i), G(ii), 147, 148, 149, P.P.C. His earlier application for the same relief bearing Cr.B.A.No.1408 of 2024 was heard and dismissed by the learned 1<sup>st</sup> Additional Sessions Judge / MCTC Shaheed Benazirabad, vide order dated 02.09.2024.

2. Precisely facts of the case are that, on 26.01.2024, complainant Inayat lodged the aforesaid F.I.R. alleging therein that, on 24.01.2024, at about 11:30 a.m., accused (1) Shouban, (2) Bashir, (3) Ameen, (4) Kaloo alias Imam Bux and (5) Ghulam-u-Din (*present applicant*), all having hatchets in their hands, and two unknown persons, duly armed with firearms, formed an unlawful assembly and in prosecution of the common object of that assembly accused Shouban Jalbani caused hatchet blow to Rasool Bux on his head and knee of right leg; accused

Bashir Jalbani caused hatchet blow to Ladho Khan on his head, left arm and other parts of body; accused Ameen Jalbani caused hatchet blow to Mehboob on his head; accused Ameen Jalbani caused hatchet blow to Mehboob on his head; Kaloo alias Imam Bux caused hatchet blow to Haibat on his left hand and accused Ghulam-u-Din (*present applicant*) caused hatchet blow to Arbab on his head. The unknown accused persons made aerial firing to cause harassment. The cries of complainant party attracted to villagers who came running there, then all the accused run away from the occurrence. On 26.01.2024, injured Rasool Bux passed away in ICU of PMCH, Nawabshah. As per FIR, motive behind the alleged murder/incident was annoyance of the accused party at complainant party over dispute of a piece of land.

3. Mr. Hyder Ali Maheri, learned counsel for applicant, contends that applicant is innocent and has falsely been implicated in this case by complainant due to enmity; that FIR is delayed for more than two days without plausible explanation, therefore, deliberation and consultation for implication of applicant falsely in this case cannot be ruled out; that the allegation against present applicant is that of causing injuries to Arbab, and as per MLC, the alleged injury has been opined by the MLO as "*Shujajah-i-Khafifah* and other hurts" falling under section 337-A(i) and 337-L, P.P.C. which are bailable under the Schedule of Offences; that vicarious liability of the applicant in the commission of offence is yet to be determined at trial. In support of his contentions, learned counsel has placed reliance on the case of *Abu Bakar Siddique alias Muhammad Abu Bakr v. The State and others* (2021 SCMR 540), *Mazhar*

*Hussain v. The State and another* (2012 SCMR 887), *Farzand Ali v. Taj and 2 others* (2000 SCMR 1854), *Attaullah and 3 others v. The State and another* (1999 SCMR 1320) and *Ali Sher and another v. The State* (2022 P Cr. L J Note 33).

4. Conversely, learned A.P.G opposes the grant of bail to the applicant on the grounds that he has been named in the FIR with specific role of causing hatchet injuries to P.W Arbab; that he was member of an unlawful assemble and he committed alleged offence in furtherance of common intention; that he facilitated co-accused persons and shared common intention in *qatl-i-amd* of deceased Rasool Bux; hence, he is also liable for the same.

5. Heard and record perused.

6. It appears that the name of applicant transpires in the FIR with specific role of causing hatchet injuries to PW Arbab on his right parietal area, left parietal area, on posterior part of his left parietal area and on his left upper arm. I am not impressed with the arguments of learned counsel for the applicant that since the F.I.R. is delayed by two days, deliberation and consultation before lodging of F.I.R. to implicate the applicant cannot be ruled out, and that the injuries allegedly caused to PW Arbab are minor in nature. It reveals from the FIR that after incident, the complainant party took the injured to Taluka Hospital, Sakrand for treatment but due to serious nature of injuries, injured Rasool Bux, Haibat and Ladho Khan were taken to PMCH, Nawabshah where during treatment on 26.01.2024 Rasool Bux passed away in ICU

and after funeral ceremony, the complainant lodged the F.I.R. As such, delay in F.I.R. is plausibly explained. It is not merely a case of causing minor injuries by the applicant on the head of said injured eye-witness but also of sharing common intention to commit murder of the deceased. Every hypothetical question, which could be imagined, would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence. The case-law cited by the learned counsel for the applicant does not advance the case of the applicant being on different footings. Accordingly, instant bail application being devoid of merits is hereby dismissed.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of applicant on merits.

Criminal Bail Application stands disposed of.

JUDGE

*Tufail*