

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 1315 of 2024****Crl. Bail Application No. 1316 of 2024**

Applicants : Muhammad Hassan Shakir, Muhammad Faizan Shakir @ Faizan and Nazar Muhammad Khan Abid @ Nadir through Mr. Abid Hussain Chang, Advocate along with applicants

Respondent : The State through Mr. Saleem Akhtar Buriro, Additional Prosecutor General a/w S.I. Izat Wagan, I.O. and ASI Muzammil Ali

Complainant : through Miss. Lubna A. Abbasi, Advocate

Date of hearing : 27th September, 2024

Date of Order : 8th October, 2024

ORDER

Omar Sial, J. On 09.05.2024, Muhammad Umar Khan recorded a section 154 Cr.P.C. statement. He stated that he was sitting outside his shop with his friend Aamir when, at approximately 2:15 a.m., they saw people gather outside the shop of his nephew Feroz, who was also nearby. Umar and Aamir investigated the commotion and saw that Hassan, Rehan, Faizan, Hannan, Mannan (all brothers), and their uncle Nazar alias Nadir were all present with pistols. An exchange of hot words was ongoing between them and Faizan (Umar's son) and Danish (Faizan's friend). Applicant Faizan hit Umar on his head with a pistol butt when he tried to intervene. When Faizan (Umar's son) tried to save his father, Rehan and Hassan opened fire on Faizan. Two bullets struck Faizan. It appears from Umar's statement that Faizan (his son) was also armed with a pistol, which pistol fell to the ground and ostensibly was being taken away by the

accused persons when they were asked by Danish to return the pistol. Instead of returning the pistol, the accused fired upon Danish, but the shot missed him. Danish was then tied to a tree and tortured by the accused persons. The injured Faizan died in the hospital. F.I.R. No. 243 of 2024 was registered the same day at the Korangi police station.

2. The learned 1st Additional Sessions Judge, Karachi East, dismissed the pre-arrest bail applications of Hassan, Faizan, Hanan, Manan, and Nazar alias Nadir on 23.05.2024. Instead of surrendering, they have now approached this Court seeking pre-arrest bail.

3. I have heard the learned counsel for the accused, the complainant, and the learned Additional Prosecutor General. My observations and findings are as follows.

4. These are applications seeking pre-arrest bail. The applications are dismissed on the following grounds.

- i. There are two eyewitnesses to the occurrence. A tentative assessment does not reveal malafide from the complainant or the police. When explicitly asked, the learned counsel for the accused could not provide any reason for a false implication. Malafide is an ingredient that determines an accused's eligibility for the extraordinary relief of pre-arrest bail.
- ii. The investigating officer of the case, who was present in Court, submitted that the accused took interim pre-arrest bail at the outset and since has not co-operated in the investigation. Due to their lack of cooperation, he has been unable to effect recovery of the weapons or make meaningful headway in his investigation, although he has photographs that ostensibly reflect the presence of some of the accused with pistols in their hands on the scene of the

crime at the date and time mentioned in the F.I.R. Two empties were recovered however from the scene.

- iii. The above, which was not rebutted or justified by the learned counsel for the applicants, is sufficient to disentitle the accused to the concession of pre-arrest bail. The pre-arrest bail applications are, therefore, dismissed. I have intentionally not made further observations on the arguments submitted by the counsels lest those observations impact the case of either party when their post-arrest bail applications are heard. The accused should be taken into custody. They shall be interrogated and investigated comprehensively by the investigating officer.

JUDGE