

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

Criminal Bail Application No.S-821 of 2024

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**DATE ORDER WITH SIGNATURE OF JUDGE**

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**11.10.2024**

Mr. Muhammad Hashim Laghari advocate along with applicant.  
Mr. Ayaz Ali Gopang advocate along with complainant.  
Mr. Siraj Ahmed Bijarani Assistant PG along with IO/SIP Karim Bux  
Lakho PS Qazi Ahmed, Shaheed Benazirabad.

**ZULFIQAR ALI SANGI, J.-** Applicant seeks pre-arrest bail in Crime No.214/2024 registered at P.S. Kazi Ahmed U/s 302, 114, 337-H(ii), 504, 34 PPC.

2. The contents of FIR need not to be reproduced as the same are already mentioned in the memo of bail application.

3. Bail has been sought on the ground that as per FIR applicant was empty handed and only allegation of instigation has been assigned who after investigation was found innocent and such report was submitted before the Magistrate who took cognizance against him; that no role has been assigned against applicant of any firing upon complainant, however, the same has been assigned to co-accused Yameen and Mumtaz, therefore, case of applicant requires further inquiry. He has relied upon the cases reported as PLD 1989 Supreme Court 347, 1993 P Cr. L J 604, 2002 MLD 113, 1991 SCMR 297, 1994 MLD 1291, 2007 YLR 406, 2011 P Cr. L J 242, PLD 2008 Peshawar 42, 2008 MLD 905, 2008 P Cr. L J 810, 2008 YLR 827, 2008 MLD 971, 2011 YLR 1636, 2007 P Cr. L J 502 and 1990 P Cr. L J 1353.

4. Counsel for complainant and APG have opposed the bail on the ground that applicant is nominated in FIR as a principle accused on whose instigation co-accused have committed a heinous offence; that no malafide has been mentioned as to why he has been implicated and the FIR was promptly lodged; that applicant being near relative to the co-accused Yameen and Mumtaz who have caused fire shots upon the deceased and injured, therefore, applicant is not entitled for confirmation of bail. They relied upon the cases reported as 2014 P Cr. L J 630, SBLR 2024 Sindh 706, SBLR 2024 Sindh 489, 2000 P Cr. L J 974, and 2009 SCMR 725.

5. Heard learned counsel for the applicant, complainant and APG and perused the material available on record.

6. No doubt, the applicant is nominated in FIR, however, he was empty handed and there is nothing on record to show that he had an intention to commit an offence. Mere allegation of instigation and presence at the spot is not sufficient to hold that applicant is involved in the offence. During investigation the applicant was found innocent and such report was furnished before the Magistrate. Though the opinion of police is not binding on the courts, however, same can be considered while deciding bail application. The role assigned against the applicant in respect of instigation is to be decided by the trial court after recording evidence and at this stage the case of applicant calls for further inquiry entitling him for confirmation of bail.

7. Under such circumstances, the bail application is allowed and the interim pre-arrest bail already granted to the applicant vide order dated 25.07.2024 is confirmed on the same terms and conditions.

8. The observations made hereinabove are tentative in nature only for the purpose of deciding the instant bail application, which shall not, in any manner, influence the learned Trial Court at the time of final decision of the subject case.

**JUDGE**

Ali Haider