

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Cr. Bail Application No. S-719 of 2024.

Mr. Saeed Ahmed A. Panhwar, Advocate for applicant.
Mr. Khalil Ahmed Maitlo, Deputy P.G for the State.

Date of hearing: **24-10-2024**

Date of order: **24-10-2024**

ORDER

ZULFIQAR ALI SANGI, J.- Through instant Criminal Bail Application applicant Hafeez Kharoos seeks post-arrest bail in Crime No.128 of 2020, registered at P.S, Newpind, Sukkur under sections 302, 324, 427, 337H(ii), 114, 148 & 149 PPC after his bail plea was rejected by learned trial Court vide order dated 02.10.2024.

2. The allegation against the applicant, as per FIR, is that he along with co-accused had fired upon complainant party, result thereof, Hubdar Ali was died and Khan received firearm injuries.

3. The bail is sought only on the ground that there appear general allegations against all the accused persons and there is no specific role of causing fire shots mentioned in the FIR; that as per FIR, role against present applicant is that he along with co-accused had fired only upon injured Khan; that enmity between the parties is admitted in the FIR, therefore, applicant may be released on bail. In support of his contentions, he relied upon cases reported in **2023 SCMR 999, 2024 SCMR 464 and 2013 YLR 681.**

4. Bail is opposed by learned APG on the grounds that FIR was promptly lodged and there is no chance of any deliberation and consultation; that injured received nine firearm injuries, therefore, applicant is not entitled for concession of bail. To support his contentions, learned DPG has relied upon **2024 SCMR 1576.**

5. Heard learned counsel for applicant as well learned DPG and perused the material available on record. From perusal of record, it reflects that applicant is nominated in FIR with specific role that he along

with co-accused had directly fired upon complainant, result thereof, one Hubdar Ali was died and Khan has received nine injuries. Ocular evidence is supported by medical evidence and the prosecution witnesses have fully supported the case of the complainant. There appears no mala fide on the part of complainant or I.O of the case for falsely implication. There appear reasonable grounds to believe that the applicant has committed the alleged offence which is punishable with death or imprisonment for life, hence the case of applicant falls within the prohibitory clause of section 497 Cr.P.C. Under the similar circumstances, the Supreme Court in the case of Itbar Muhammad v. The State and others (2024 SCMR 1576) has refused the bail by holding that "On personal of record it reflects that this is a case in which one person has lost life and one person has sustained injuries at the hands of accused persons. Furthermore, the petitioner/accused along with other accused was nominated in the FIR and specific role of firing at the deceased and injured person was attributed to petitioner specifically. PWs in their statements have supported the version of complainant given by him in the FIR. The medical evidence also corroborates the ocular account". Further, reliance was made on the cases of Sher Muhammad v. The State (2008 SCMR 1451) and Shoukat Ilahi v. Javed Iqal and others (2010 SCMR 966).

6. It is also settled principle of law that at bail stage, deeper scrutiny of material available on record is unwarranted, as that would affect the merits of the case at the trial. However, tentative assessment of material available on record prima facie connects the applicant with the commission of offence.

7. Accordingly, in view of above, this bail application is **dismissed**. The observations made hereinabove are tentative and would not influence learned Trial Court at the time of deciding the case as the same are only for deciding this bail application.

JUDGE

AHMAD