

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

Cr. Bail Application No. S-818 of 2024

Moula Bux and Others.....Applicants

Versus

The State.....Respondent

Meer Ahmed Mangrio, advocate for applicants
Muhammad Iqbal Hingoro, advocate for complainant
Sana Memon, Assistant P.G

Date of Hearing : 14.11.2024

ORDER

YOUSUF ALI SAYEED, J - Following the dismissal of their earlier bail application by the learned Additional Sessions Judge-I Kotri, the Applicants have approached this Court under section 497 Cr.P.C seeking post-arrest bail in respect of FIR No. 02 of 2024, registered against them at Police Station Coal Mines District Jamshoro on 01.04.2024 under Sections 302 and 34 PPC at the behest of one Ali Asghar, regarding the murder of his nephew, Imran.

2. Succinctly stated, the FIR is premised on the assertion that the Applicants were inimical towards Irfan as they suspected him of being involved in an illicit relationship with one of their female relatives. The allegations then case in that light are that on 28.03.2024 the Complainant and certain relatives, including the deceased, were partaking of tea at a local hotel in the vicinity of the coal mine company where they were employed and resided, when the Applicants are said to have arrived, prompting the Complainant and his companions to leave the establishment so as return to their quarters and retire to their respective rooms. Per the Complainant, at 02:00 hours on 29.03.2024 he heard the sound of a gunshot

that he mistook to be a burst tyre. One Munshi Shafi Muhammad is said to have then found Imran lying dead on the cot when he entered the room in the morning to serve him tea, after which he informed the Complainant and other labourers, who went to the room and saw that Imran had a gunshot injury to the head. The police were informed and came to the scene, with the body then being taken to the local hospital for post mortem, following which the same was handed over for internment. It was said that the Complainant and other relatives then took the body to their village for burial, after which they came to know that the Applicants had committed the murder, hence the FIR nominating them in the crime.

3. Learned counsel for the Applicants and the learned APG and counsel for the Complainant were heard and the record perused, with the following points coming to the fore:
 - (a) The incident is an unseen one inasmuch as no eyewitness was present to render any account of having seen anyone engaged in the murder of Imran.
 - (b) The incident is said to have taken place on 29.03.2024 whereas the FIR was lodged as belatedly as 01.04.2024 albeit the police having been said to have come to the spot on the very morning that the body of Imran was discovered.
 - (c) Despite it having been narrated in the FIR that the complainant and his associates left the hotel when they were having tea upon the arrival of the Applicants, alluding to their presence having made them uneasy, it is only subsequently after the funeral of the deceased that the Complainant is said to have come to know that Applicants have fired upon the deceased.
 - (d) No incriminating recovery has been made from any of the Applicants, with the only plausible link between them and the crime being that of CDR data gathered in respect of 3 of the Applicants to prima facie show their presence in the general vicinity; however, such data is at best a circumstantial piece of evidence, as observed in the case of Naveed Sattar v. The State and others 2024 SCMR 205.

4. It is in view of those factors that the Application was allowed vide a short Order made in Court upon culmination of the hearing on 14.11.2024 with the Applicants being granted post-arrest bail subject to furnishing solvent surety in the sum of Rs.2,00,000/- each and execution of P.R Bond in the like amount to the satisfaction of Trial Court.

JUDGE