

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
1st CrI. Bail Appln. No.S-465 of 2024

Date	Order with signature of Hon'ble Judge
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- 1. For orders on office objection.**
- 2. For hearing of Bail Application.**

Applicant : Mehmood Dashti, through Mr. Muhammad Afzal Jagirani, Advocate.

The State : Through Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Date of hearing : 07.11.2024.

Date of Order : 07.11.2024.

ORDER

ARBAB ALI HAKRO, J.- Applicant Mehmood, son of Moula Bux, by caste Dashti, seeks post-arrest bail in crime No.111 of 2023, registered at Police Station Kashmore, for offence under Sections 302, 337-H(2), 114, 148, 149, PPC, after having been declined such relief by the learned Additional Sessions Judge, Kashmore vide order dated 07.8.2024.

2. The facts of the prosecution case, in brief, are that on 31.05.2023, at about 7.30 p.m. time, at Shahi Pull/Bridge near Dakhan Bungalow in Deh Gulanpur, the applicant along with eight others, named in the FIR, being armed with KKs, gun, pistols and hatchet, attacked upon the complainant party, wherein on the instigation co-accused Asghar Dashti, another co-accused Wali Muhammad, Muhammad Ameen and Muhammad Aslam fired upon Muhammad Yousuf, resulting in his death and then the accused persons making aerial firing left the scene.

3. Learned counsel for the applicant submits that the applicant has been implicated falsely in this case by the complainant party in the background of previous matrimonial dispute, which is admitted in the FIR. He further submits that there is delay of 03 days in lodging of FIR, for which no plausible explanation has been furnished by the complainant. He next submits that per FIR general role of aerial firing along with others is attributed to the applicant and no overt act is attributed to him in the commission of alleged offence; that co-accused Shah Jahan with the similar role has been bailed out by the trial Court; hence, not only on the principle of consistency, but also in the

background of previous enmity between the parties, coupled with delay of 03 days in lodging of FIR and no active role assigned to the applicant, the case against him requires further enquiry.

4. Learned Addl. PG appearing for the State candidly conceded for grant of bail to the applicant.

5. Heard learned counsel for the applicant, learned Addl. P.G. for the State and perused the available material.

6. From perusal of the FIR, there appears enmity between the parties over matrimonial affairs. There is delay of 03 days in lodgment of FIR without plausible explanation. The role assigned to the applicant in the alleged incident is general in nature i.e. making ineffective aerial firing with co-accused and no active part is attributed to him. The pivotal role of firing at and committing murder of deceased Muhammad Yousuf is assigned to co-accused Wali Muhammad, Muhammad Ameen and Muhammad Aslam. The applicant has not caused any injured to the deceased. In view of mere presence of the applicant, the question of sharing common intention by him with co-accused would be determined at the trial. In the background of admitted enmity between the parties, coupled with an inordinate and unexplained delay of 03 days in lodgment of FIR and no overt act assigned to the applicant, his case requires further enquiry within meaning subsection (2) to Section 497, Cr.P.C. Moreover, co-accused Shah Jahan has been granted bail by the trial Court, therefore, rule of consistency is also fully applicable in this case.

7. For the foregoing reasons, instant bail application is allowed and the applicant is directed to be released on bail on his furnishing solvent surety in the sum of Rs.200,000/- (Rupees two hundred thousand only) and P.R. Bond in the like amount to the satisfaction of trial Court.

8. It needs no reiteration here that the observations recorded hereinabove are based on tentative assessment of the material placed on record, which shall not influence the trial Court in any manner while deciding the fate of the case at its final stage.

Judge