

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Bail Application No.S-1287 of 2023

Applicant : Ghulam Murtaza @ Meer through Mian Taj Muhammad Keerio, Advocate along with Mr. Peeral Majeedano, Advocate.

Respondent : The State through Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Complainant : Sanaullah Chandio through Mr. Muhammad Sachal R.Awan, Advocate.

Date of hearing : 18.10.2024.

Date of Order : 18.10.2024.

## **ORDER.**

**Amjad Ali Sahito, J:-** Through instant bail application, the applicant/accused namely, Ghulam Murtaza @ Meer seeks post-arrest bail in Crime No.188/2023, registered at Police Station Badin District Badin for the offence under sections 302, 114, 34 PPC. Earlier the bail plea of the applicant/accused was declined by the learned 1<sup>st</sup> Additional Sessions Judge/MCTC, Badin vide order dated 08.11.2023.

2. The details of the FIR are included in the bail application and its attached copy, so there is no need to restate them here.

3. Learned counsel for the applicant contends that the applicant/accused is innocent and has falsely been implicated in this case; that the FIR is delayed about 34 hours for which no plausible explanation was furnished by the complainant; that the applicant/accused was booked in this case due to previous enmity. He further contends that on the day of incident, the applicant/accused was available on his duty at Government Primary School Allah Dino Jalalani. He further contends that the re-investigation was conducted and as per re-investigation the applicant/accused was declared as innocent. Learned counsel has also relied upon the case diary dated 18.05.2023 wherein as per him, the witnesses were present in Court room and they were not present at the place of incident. He has also relied upon on the Attendance Register and as per him on the day of incident the applicant/accused was present on his duty. He lastly contends that there is contradiction between the ocular and medical version even recovery was not effected from the present applicant/accused; that the applicant/accused is also in Jail for last 17 months and no progress has been made before the learned trial Court as such the applicant/accused is entitled for concession of bail. In support of his contentions the cases reported as ABDUL HAMEED and 2

others v. THE STATE [2003 MLD 19] and Chaudhry NADEEM SULTAN v. The STATE through P.G. Punjab and another [2022 SCMR 663].

4. On the other hand, learned counsel for the complainant and learned A.P.G. Sindh both oppose the grant of bail to the applicant/accused.

5. Heard and perused the record.

6. The record shows that the applicant's name is mentioned in the FIR with a specific role in the incident. On the day of the occurrence, the complainant's father, Anwar Ali, was at the gate of Sessions Court, Badin when the applicant at the instance of co-accused, allegedly fired at him, resulting in a chest injury. Anwar the father of complainant was taken to Indus Hospital but later succumbed to his injuries. Only the gunshot fired by the applicant/accused directly resulted in the death of the complainant's father. The eyewitness accounts and medical evidence fully corroborate each other. So far the plea of applicant with regard to lodgment of FIR in delay of 34 hours is concerned; the complainant has properly explained such delay stating that after postmortem and funeral ceremony he has lodged the FIR. Further, the learned counsel for the applicant/accused emphasized a case diary dated 18.05.2023, which indicates that the prosecution witnesses were present in the courtroom; however, it does not specify the exact time of their presence, leading to a plea of alibi. This issue requires deeper assessment of the evidence, which can only be determined at the trial. It is important to note that, at the bail stage, only a tentative assessment is made. At present, there is sufficient evidence available that could connect the applicant/accused to the commission of the offense.

7. In view of the above facts and circumstances, learned counsel for the applicant/accused has failed to make out the case for further inquiry as envisaged in subsection 2 of section 497 Cr.P.C. Consequently, instant criminal bail application is **dismissed**. However, learned trial Court is directed to expedite the case and conclude it within sixty (60) days after receipt of this order. It is made clear that if the witnesses and complainant fail to appear before the trial Court, coercive action must be taken against them for recording their evidence.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE