

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st Crl. Bail Application No.S-37 of 2020.

Ali alias Ali Akbar Depar

V/S

The State

Applicant : Through Mr. Aashique Ali Jatoi, Advocate.

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

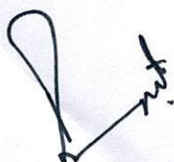
Date of Hearing : 13.03.2020.

Date of Decision : 13.03.2020.

ORDER

ZAFAR AHMED RAJPUT, J.- Having been rejected his earlier application for grant of bail bearing No.32/2020 by the learned Additional Sessions Judge-I, Shahdadkot, vide order dated 16.01.2020, applicant/accused Ali @ Ali Akbar son of Mehar, through instant Crl. Bail Application seeks post arrest bail in Crime No.93/2019 registered at Police Station A-Section Shahdadkot, under sections 302, 148,, 149, 114, & 337-H(ii), PPC.

2. Brief facts of the case, as narrated in the aforesaid FIR lodged on 23.03.2018 by the complainant, namely, Naseer Ahmed son of Ghulam Ali Khaskheli are that about one and half years prior to this incident one Aamir Magsi was murdered and such FIR was lodged against Depar Community by Rahib Magsi and after lodging of such FIR Rahib Magsi and other showed apprehension that Wazir Ali, the brother of the complainant Naseer Ahmed had committed the murder of Aamir Magsi and hence they used to say that they would take revenge. It is further alleged that on 31.08.2019 at 09:45 a.m, the complainant along with his brother Wazir Ali, relative Aslam and Ghulam Rasool were sitting in the Saloon of Mumtaz Ali Ghaloo in




Shahdadt city when 1.Muhammad, 2.Ramzan, 3.Rahib, all sons of Umer Magsi, 4.Abdul Khalique son of Mashooque Ali Depar, 5.Ali son of Mehar Depar and one unidentified person with open face came there. They took out pistols from the fold of Shalwar and on the instigation of accused Ramzan Magsi and Ali Depar, accused Rahib Magsi, Abdul Khalique Depar and Muhammad Magsi made straight fires which hit Wazir Ali on his right arm, left arm and forehead, respectively, who fell down on the ground, then all the accused persons ran away while injured Wazir Ali succumbed to injuries on the spot.

3. Heard the learned counsel for the applicant as well as Addl. P. G and perused the material available on record.

4. It appears from the perusal of the material available with prosecution that alleged injuries to deceased have been attributed to co-accused Rahib Magsi, Abdul Khalique Depar and Muhammad Magsi. The allegation against the applicant/accused as per prosecution is that he abated/instigated said co-accused persons for the commission of alleged murder of deceased Wazir Ali. It may be observed that the presence of the present accused has been shown in the FIR, duly armed with pistol, but no overt act has been assigned to him in the FIR. Hence the question of vicarious liability of the accused with regard to the commonness of his intention for committing alleged offence will be determined at the trial. In the circumstances of the case mentioned above, I have found the case against the applicant/accused as one of further enquiry into guilt as envisaged subsection (2) of Section 497, Cr.P.C. Accordingly, the applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs.300,000/- (Rupees. Three hundred thousand only) and P.R bond in the like amount to the satisfaction of learned trial Court.

5. Needless to mention that the above observations of this Court are tentative in nature and shall not influence the trial Court to decide the matter on merit. In case the applicant misuses the concession of bail in any manner whatsoever, the trial Court shall be at liberty to cancel the bail of the applicant after serving him requisite notice.

6. Above are the reasons of my short order dated.13.03.2020, whereby the instant Crl. Bail Application was allowed in above terms.


Judge 16/03/2020.