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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Criminal Bail Application No. S-679 of 2019

Applicant : Abdul Majeed s/o. Ahmed Khan Kosh,
through Mr. Rafiq Ahmed K. Abro, Advocate

Respondent : The State, through Mr. Ali Anwar Kandhro, APG

Complainant : Ashique Ali s/o. Muhammad Ibrahim Soomro,
through Mr. Athar Abbas Solangi, Advocate

Dates of hearing : 13.01.2020


Date of order : 13.01.2020

ORDER

ZAFAR AHMED RAJPUT, J:- Having rejected his earlier post-arrest bail application bearing No. 609 of 2019 by the learned 1st Additional Sessions Judge (MCTC), Larkana vide order dated 08.11.2019, applicant/accused Abdul Majeed s/o. Ahmed Khan Kosh through instant criminal bail application seeks post-arrest bail in Crime No. 108 of 2019, registered at P.S Ratodero, District Larkana, under Section 302, 114, 337-H2, 504 & 34, P.P.C.

2. Briefly stated the facts of the case, as narrated in the aforesaid F.I.R. lodged on 31.08.2019 by the complainant, namely, Ashique Ali s/o. Muhammad Ibrahim Soomro, are that on 30.08.2019 at 6:30 p.m. accused Abdul Ghani and Muhammad Ali alias Papan, duly armed with pistols, along with their father Abdul Majeed (applicant) came in the street of complainant where applicant abused the complainant and told him that his son Sagar Ali flew kites on roof top whose sight reflected upon their house; meanwhile Sagar Ali reached the spot where on the instigation of applicant, co-accused Abdul Ghani made straight fire on his forehead, who fell down and succumbed to his injury on way to hospital.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case; that the alleged incident is alleged to have been taken place in early evening hours in the mid of Ratodero

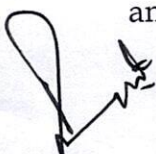


town but no person from the locality has been cited as witness; that the applicant is an old person of eighty years who has been shown in the F.I.R. present at the place of incident with empty handed and only the allegation of instigation has been leveled against him, which falls within the ambit of further enquiry.

4. On the other hand, learned counsel for the complainant and APG have opposed the grant of bail to applicant on the ground that he has been nominated in the F.I.R. with specific role and on his instigation, co-accused Abdul Ghani committed murder of the deceased.

5. Heard the learned counsel for the applicant, complainant and APG for the state as well as perused the material available on record.

6. It reflects from the perusal of the record that the alleged incident took place on 30.08.2019 at 6:30 p.m. while the F.I.R. was recorded on 31.08.2019 at 09:00 a.m., after about 15 hours of the alleged incident for that no plausible explanation has been furnished by the prosecution. The applicant has been shown in F.I.R. present at the spot with empty handed. There is no description of overt act against him except the allegation of instigation. It is yet to be seen at trial as to whether the main accused acted independently or under the influence of the applicant; hence, the question of vicarious liability of the applicant 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 one of further inquiry into his guilt, as envisaged under 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.2,00,000/- (Rupees Two Lacs only) and P.R. Bond in the like amount to the satisfaction of the trial Court.



7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the accused on merits. In case accused in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.



JUDGE