

ORDER SHEET
**HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail Application No.S-292 of 2021.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objections.
For hearing of main case.

14-06-2021

Mr. Suhbat Ali Lound, advocate for the applicant.
Mr. Ali Bux Lound advocate for the complainant.
Ms. Rameshan Oad, Assistant Prosecutor General.

Applicant Ali Dost s/o Misri Faqeer was nominated in FIR No.70/2015, under Sections 302, 114, 504, 34 PPC, registered at P.S. Johi, district Dadu. The applicant was arrested a number of years after the trial having been declared as proclaimed offender and had been brought before the Court of Additional Sessions Judge-I (MCTC) Dadu to face trial. The applicant filed a post arrest bail application before the aforesaid trial Court which was dismissed vide order dated 01.04.2021. The applicant has now approached this Court for post-arrest bail.

The brief facts of the case are that there was a matrimonial dispute between Ali Dost and others with the complainant party which included one Sikandar Ali. On account of the applicant being annoyed with Sikandar Ali applicant alongwith co-accused Waleed who was his son and Irfan who were all armed with pistols signaled Sikandar Ali to stop his bike. The applicant used abusive language and stated that he was helping Mst. Faiza hence, he will not spare him (Sikandar Ali) today and instigated co-accused Waleed for committing Sikandar Ali's murder whereupon co-accused Waleed made straight fire upon Sikandar Ali who later died.

Learned counsel for the applicant has contended that on account of enmity between the parties he has been fixed in this false case; that the FIR is delayed for a period of four days which creates serious doubts on the story of the

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prosecution; that it was a false case and that his role as alleged is only instigator and as such he may be admitted to post-arrest bail. In support of his contentions he has relied upon 2020 SCMR 451, 2018 YLR Note 122, 2017 MLD 349, 2012 P.Cr.L.J. 1970, 2009 SCMR 1210, 1996 P.Cr.L.J. 751, 1973 P.Cr.L.J. 397.

On the other hand learned APG and learned counsel for complainant have argued that there was no delay in FIR; that co-accused Waleed has been convicted of the murder of Sikander Ali as stated in the F.I.R. in absence of the applicant who was absconder in this case for five to six years and that he has been named in the FIR with specific role and as such his application for post-arrest bail be dismissed. In support of their contentions they have relied upon 2010 MLD 850, 2010 MLD 1813, 2010 MLD 515, 2011 P.Cr.L.J. 1479, 2013 P.Cr.L.J. 1387, 2013 P.Cr.L.J. 1331 and 2013 YLR 2688.

I have heard learned counsel for the parties, gone through the record and considered the relevant case laws.

I have found that delay in lodging FIR has been explained as Sikandar Ali was seriously injured and was taken to hospital where he died on 15.11.2015. His post-mortem was carried out on 16.11.2015 and then after his burial FIR was lodged on 17.11.2015. Even otherwise the incident was reported at P.S. Johi on the date of the incident and as such the police were fully aware of the incident. The applicant is named in the FIR and has been given specific role of instigation. The instigation was to his son Waleed to fire upon Sikandar who later died. Waleed has already been convicted for murder. Without such instigation the murder would not have been possible. Apart from the FIR the applicant has been fully implicated in the instigation of the murder of Sikander Ali by Ghulam Qadir and Abdul Jabbar through their Section 161 Cr.P.C. statements. It is noted that the applicant had absconded for about five years and only surrendered after conviction of Waleed and as such there is every possibility that he might abscond again.

For the reasons discussed above there is sufficient material on record to link the applicant to the commission of offence and as such his post-arrest bail application is dismissed. Learned trial Court/ 1st Additional Sessions Judge, Dadu is directed to complete the trial of the applicant within six months of the date of this order. He shall first record evidence of complainant and thereafter record the statements of PWs Ghulam Qadir and Abdul Jabbar. Copy of this order shall be sent to Additional Sessions Judge-I, Dadu for compliance.

The observations made in this order are tentative in nature and will have no influence or bearing upon the outcome of trial which shall be decided on merits by the learned trial Judge based upon evidence placed before him.

This bail application is disposed of in the above terms.


JUDGE