

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sajjad Ali Shah

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.96-K of 2021

(Against the judgment dated .28.06.2021 passed by the High Court of Sindh in Cr. Bail Application No.S-203 of 2021)

Ghulam Hyder

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s):

Mian Taj Muhammad, ASC

Ms. Abida Parveen Channar, AOR

For the State:

Mr. Hussain Khan Baloch,

Addl. Prosecutor General Sindh

Along with Syed Jafar Shah, DSP Tando
Allah Yar, Javed Iqbal, SI and Idrees, SI

Date of hearing:

10.09.2021.

ORDER

Qazi Muhammad Amin Ahmed, J.- The petitioner is in the array of accused in a case of homicide wherein one Niaz Ali was shot dead during the night of 11th December, 2020 within the precincts of Police Station B. Section Tando Allah Yar Khan. It is alleged that during the fateful night, the accused six in number, in the backdrop of a dispute over water turn, assaulted the deceased; solitary fatal shot is attributed to Azhar co-accused; remainder of the accused are blamed to have clutched the deceased whereafter he was hit on his forehead, bullet exiting from the rear. The petitioner has been declined bail lastly by the High Court vide impugned order dated 28.6.2021, leave to appeal wherefrom is being prayed for on the grounds that on stated facts the accusation called for further probe inasmuch as five persons could not have held the deceased without risking their own safety in the face of an incoming shot nor there was any necessity for such a dangerous exercise when, according to the prosecution itself, the deceased was allegedly within the reach of the accused targeting him from a short

distance. The bottom line is that a wider net is cast to rope the entire clan in a midnight affair.

2. Heard. Record perused.

3. Be that as it may, though named in the crime report alongside others of the same brotherhood, the petitioner is assigned role of a facilitator by holding the deceased alongside four others; the question is as to whether in the facts and circumstances of the case as alleged by the complainant himself, such facilitation was at all required, that too, without incurring fatal risk of being unintendedly hit by the shot in the darkness and as such petitioner's culpability requires further probe within the contemplation of subsection 2 of section 497 of the Code of Criminal Procedure, 1898, paving way for his release on bail, particularly when his continuous detention is serving no useful purpose. The petition is converted into appeal and allowed; the appellant is admitted to bail on his furnishing bond in the sum of Rs.500,000/- with one surety in the like amount to the satisfaction of the learned trial Court.

Judge

Judge

Karachi, the
10th September, 2021
Azmat/-