

IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

Criminal Bail Application No.S-819 of 2025

Applicant : Mst. Laila Channa wife of Shaman Ali
through Mr. Bhagwandas Bheel,
Advocate

Complainant : Muhammad Saleh son of Muhib Ali
through Mr. Sher Dil Ansari, Advocate

The State : Through Mr. Ghulam Murtaza Mallah,
Assistant Prosecutor General, Sindh

Date of hearing : 04.09.2025

Date of Order : 04.09.2025

ORDER

Jan Ali Junejo, J.- The applicant/accused, Mst. Laila Channa W/o Shaman Ali, presently confined at the Special Prison for Women, Hyderabad, has filed the instant post-arrest Criminal Bail Application No.S-819 of 2025, arising out of Crime No.59 of 2025 registered at Police Station Husri/CP Pabban for offences under Sections 302 and 34, PPC. The record reflects that she had earlier approached the learned Sessions Court by moving Criminal Bail Application No.1273 of 2025, which was transferred to the Court of learned IInd Additional Sessions Judge, Hyderabad. However, after hearing the parties, her bail plea was declined vide order dated 13.06.2025. Aggrieved by such refusal, the applicant has now invoked the jurisdiction of this Court under Section 497, Cr.P.C. for grant of bail after arrest.

2. As regards the background facts, the record reflects that the FIR was lodged on 22.03.2025 by the complainant, who is the father of the deceased Shaman, narrating that on 21.03.2025 at Fajr time, he was informed by one Aamir Ali that the applicant had disclosed to him that two unknown persons had brought her husband Shaman home in an injured condition, stating that he had met with an accident. Shaman was immediately shifted to hospital by Lashkar Khan Channa, but he succumbed to his injuries. The complainant, who was returning from Shahdaskot at the relevant time, reached Tando Hyder in the evening,

where he noticed inconsistencies in the applicant's account of the incident. After the funeral, he suspected her involvement and reported that the applicant, in collusion with two unidentified persons, had murdered his son by striking him on the head with a sharp iron object, resulting in fracture of the skull and fatal intracerebral bleeding. Pursuant to the FIR, the police arrested the applicant and produced her before the competent Magistrate, whereafter she was remanded to judicial custody.

3. Learned counsel for the applicant contends that the applicant is innocent, has been falsely implicated due to strained relations with her in-laws, and no direct or ocular evidence connects her with the commission of the alleged offence. It is argued that the FIR is delayed by one day, which creates doubts in the prosecution story. It is further urged that at the relevant time the applicant was pregnant, and subsequently, while in judicial custody, she gave birth to a baby boy on 14.06.2025 in the Women Prison Hyderabad, as confirmed by the medical report dated 02.09.2025 issued by the Chief Women Medical Officer, Hyderabad. It is stressed that the applicant is presently feeding her suckling baby born in jail, who is in dire need of maternal care, and the prison environment cannot provide adequate nutrition or facilities essential for the growth and well-being of the infant. Reliance has been placed upon the principles enunciated by the Honourable Supreme Court that where the health and welfare of minor children are directly dependent on the liberty of a female prisoner, bail can be considered on humanitarian grounds, notwithstanding the seriousness of the offence. Lastly, the learned counsel prayed for grant of bail.

4. Learned Assistant Prosecutor General as well as Counsel for the Complainant have opposed the grant of bail by arguing that the applicant is nominated in the FIR, the medical evidence corroborates the prosecution story, and sufficient material connects her prima facie with the alleged offence, which falls within the prohibitory clause of Section 497, Cr.P.C. Lastly, they prayed for dismissal of bail.

5. I have carefully considered the arguments advanced by the learned counsel for the parties and have meticulously examined the available record with due care, as is permissible at the bail stage, with their able assistance. It is an admitted position that the case pertains to a heinous offence falling within the prohibitory clause of Section 497, Cr.P.C.; nevertheless, certain significant factors warrant special consideration. The applicant is a woman and mother of three minor children, in addition to a baby boy born in jail on 14.06.2025, as duly verified by the Medical Officer's report. The said report further confirms that the applicant is presently breastfeeding her suckling infant. It is an undeniable reality that

the prison environment is ill-suited to ensure the essential medical care, adequate nutrition, and emotional support indispensable for the healthy growth and survival of a newborn. The welfare of such an infant, who is blameless and entirely dependent upon his mother for sustenance, constitutes a paramount humanitarian concern which the Courts cannot overlook. Apart from this humanitarian dimension, the evidentiary aspects of the case also merit attention. The prosecution's case rests entirely on circumstantial evidence, with no direct ocular account available. The admitted delay of one day in the lodging of the FIR, coupled with the absence of any independent eye-witness, *prima facie* diminishes the probative value of the prosecution's stance and brings the matter squarely within the ambit of "further inquiry" as envisaged under Section 497(2), Cr.P.C. It is by now a well-settled principle of law, repeatedly recognized in various pronouncements of the Honourable Superior Courts, that in cases involving women accused, particularly those who are pregnant or nursing infants, considerations of humanitarian grounds assume paramount significance and operate as an additional factor weighing in favour of the grant of bail.

6. The Honourable Supreme Court of Pakistan, in the case of ***Mst. Asiya v. The State and another (2023 SCMR 383)***, was pleased to grant bail, *inter alia*, on the ground that the accused was a mother of a suckling infant whose welfare would be gravely compromised in jail. The Apex Court observed that: *"We have been informed that the petitioner has two children, one of which is a suckling baby girl of 17 months, who has been confined with her in jail. The other one is living with the grandmother. Learned counsel for the complainant could not deny this fact. In Mst. Nusrat v. The State (1996 SCMR 973) this Court has candidly held that the suckling child of the petitioner kept in jail is undoubtedly innocent. He is kept in jail with mother obviously for his welfare. The concept of "welfare of minor" is incompatible with jail life. So, instead of detaining the innocent child infant in the jail for the crime allegedly committed by his mother, it would be in the interest of justice as well as welfare of minor if the mother is released from the jail"*.

7. Considering the peculiar facts and circumstances of the case, special regard must be had to the condition of the applicant, who is a mother of a suckling infant born in prison, whose welfare and upbringing cannot be adequately ensured within the four walls of incarceration. The right of the child to proper care and nurturing is a matter of paramount consideration. Moreover, the prosecution case rests essentially upon circumstantial evidence, which, at this stage, does not inspire such

confidence as to conclusively connect the applicant with the alleged offence, and requires deeper appreciation at the time of trial. In these circumstances, I am of the considered view that the applicant has succeeded in making out a case for the grant of bail, both on merits as well as on humanitarian grounds.

8. For the reasons delineated here-in-above, the instant Criminal Bail Application is allowed. The applicant/accused Mst. Laila Channa is admitted to post-arrest bail in Crime No.59 of 2025 of P.S. Husri/CP Pabban, subject to her furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. Needless to observe that the observations made herein are tentative in nature and shall not prejudice the trial Court in deciding the case on merits. These are the detailed reasons of the short order announced on 04.09.2025.

JUDGE