

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2975 of 2024

Applicant : Aiman D/o Abdul Hakeem
through Mr. Altaf Hussain, Advocate

Complainant : Muhammad Zafar S/o Muhammad Ali
Present in person.

Respondent : The State
Through Mr. Qamar Din, APG

Date of hearing : 10.02.2025

Date of order : 10.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.410/2024 for the offence under Section 302/34 of PS NKIA, after his bail plea has been declined by the Addl. Sessions Judge-VII/MCTC-02, Karachi Central vide order dated 11.12.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case, otherwise from the face of FIR it is very much clear that two male persons have committed the said offence and killed the deceased Muhammad Wali; that in fact, the applicant is wife of the deceased namely Muhammad Wali and after registration of the FIR, first time she was arrested on 02.07.2024 and thereafter she was released by the I.O. of the case and meanwhile, she moved an application to the Magistrate that police is pressurizing her to confess her guilt; that again she was arrested and kept in illegal detention when her mother again filed an application for her illegal detention and subsequently, police has shown her arrested in the subject crime; that on the basis of CDR so also statement of co-accused Fazal, she has been implicated in this

case; that she is in jail and is no more required for further investigation. Lastly, he prays for grant of bail.

4. On the other hand, complainant is present alongwith mother of the deceased. She submits that the applicant is very much involved in this case and with the help co-accused, she has committed the murder as she was in touch with co-accused Amanullah as she intends to marry with him; that sufficient material is available on record to connect her with the commission of offence. Learned APG also opposes for grant of bail on the ground that after her arrest, CDR was collected and she was found in touch with the accused persons; as such, she is very much involved in this case.

5. Heard the parties and perused the material available on record.

6. Admittedly, FIR was registered against two unknown accused persons and subsequently police has arrested co-accused Fazal and during identification, he was correctly identified by eye-witnesses; however, on his statement, the present applicant was booked in this case. Learned APG stated that CDR was collected by the police in which she was found in touch with the accused and on the basis of CDR, she has been implicated otherwise there is no evidence against her. Further, during the course of investigation, only on the basis of statement of co-accused Fazal, she has been implicated in this case. In view of Article 38 of Qanun-e-Shahadat if any statement is recorded by the police, the same is not admissible in the Court of law. The applicant is in jail and she is no more required for further investigation. Her further detention will not improve the case of prosecution. Reliance is place in an unreported case of the Hon'ble Supreme Court of Pakistan in the case of **Jahzeb Khan vs. The State through A.G. KPK and others** in Criminal Petition No.594/2020; wherein the Hon'ble Supreme Court has held that:

“4..... Petitioner’s continuous detention is not likely to improve upon investigative process, already concluded, thus, he cannot be held behind the bars as a strategy for punishment. A case for petitioner’s release on bail stands made out.”

7. In view of the above, learned counsel for the applicant has made out a case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The

applicant/accused named above is granted post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- and P.R. bonds in the like amount to the satisfaction of learned trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA