

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.310 of 2025

Applicant : Ana Iftikhar wife of Muhammad Iftikhar,
Through Mr. Ghulam Nabi, advocate.

Respondent : The State
Through Ms. Rahat Ehsan, Addl. P.G.

Date of hearing : 19.05.2025

Date of order : 26.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Ana Iftikhar seeks pre-arrest bail in a case bearing crime No.735/2024 registered at Police Station Gadap City, Karachi, for offence under section 302 PPC. Her earlier application for pre-arrest bail bearing No.166/2025 was declined by the learned IIIrd Additional Sessions Judge, Malir, Karachi, vide order dated 28.01.2025.

2. As per prosecution theory, on 06.12.2024, police recovered the body of an unidentified elderly woman (about 60/70 years) near Jharian, Main Motorway M-9, Karachi, wrapped in a white sheet. The body bore visible signs of violence, bleeding from the nose, swollen forehead and eye, and redness around the ear. Recovered items included a rope, tasbih, thread with key, blood swab, and cash. Post-mortem was conducted at Abbasi Shaheed Hospital; cause of death was reserved pending forensic analysis. Based on the condition of the body and circumstances, the death was deemed unnatural and the case was registered under Section 302 PPC against unknown persons.

3. Learned counsel contended that the applicant is a law-abiding citizen who has been falsely implicated in the instant case due to domestic enmity and ulterior motives. He submitted that the FIR pertains to the recovery of a dead body of an elderly woman from a deserted area, wrapped in a white sheet, without naming any accused person, including the present applicant. He emphasized that the FIR was initially registered against unknown persons, and no ocular evidence or direct allegation

connects the applicant to the commission of the offence under Section 302 PPC. It was further contended that the applicant is the wife of co-accused Muhammad Iftikhar, who is already in judicial custody, and the police are now attempting to rope in the applicant merely on account of her relationship with the co-accused. Learned counsel stated that no recovery has been made from the applicant, and the investigating officer has failed to establish any nexus between the applicant and the commission of the crime. Additionally, he argued that there is no confessional statement under Section 164 Cr.P.C. of the co-accused implicating the applicant, nor is there any forensic or scientific evidence linking her to the offence. He urged that the case against the applicant requires further inquiry and that she has serious apprehension of arrest, which entitles her to pre-arrest bail as she is ready to join the investigation and furnish surety. Lastly, it was submitted that the applicant is a woman suffering from a chronic illness, including high blood sugar, and as such, she is entitled to the concession of pre-arrest bail on humanitarian grounds, particularly when there is no tangible material available on record connecting her with the alleged murder. Learned advocate for applicant relied upon the case law cited at 2024 SCMR 476, 2023 SCMR 364 and 2022 YLR Note 82.

4. Conversely, the learned APG for the State vehemently opposed the instant pre-arrest bail application, submitting that the applicant is deeply implicated in the offence through a well-knit chain of circumstantial evidence. It was argued that the applicant, in collusion with her husband/co-accused Muhammad Iftikhar, played an active role in the murder of deceased Mst. Suraiya Bibi. The learned APG submitted that the deceased had extended a loan to the applicant and her husband, and upon demand for repayment, the applicant, with her co-accused spouse, hatched a criminal conspiracy to eliminate the deceased. He further contended that CDR analysis revealed that the applicant remained in close and continuous communication with her co-accused husband on the day of the incident. It was argued that the co-accused was under financial distress due to accumulated debts and, along with the applicant, deceitfully procured the sale proceeds of the deceased's house by gaining her confidence. Part of the sale consideration

amounting to Rs.24,00,000/- (Rupees Twenty-Four Lac) was directly received by the present applicant at her residence from the purchaser, under the pretext of facilitating the deceased's intended travel abroad. The learned APG emphasized that soon after receiving the said amount, the deceased was murdered, and the manner of disposal of her body indicated a premeditated act. The learned APG submitted that the investigation is at a crucial stage and the applicant, having been named as a suspect on the basis of corroborative material including CDRs, WhatsApp audio messages with the purchaser and the deceased's relatives, and financial transactions, is not cooperating with the Investigating Officer and is actively attempting to obstruct the investigative process. He contended that such conduct disentitles her to the extraordinary relief of pre-arrest bail.

5. Tentative assessment of the record shows that police initially discovered a dead body of an elderly woman later identified as Mst.Suraiya Bibi from a deserted area. The deceased bore visible injuries and was found wrapped in a white sheet, suggesting homicidal violence. Consequently, a case under Section 302 PPC was registered and investigation was initiated. During the course of investigation, statements under Section 161 Cr.P.C. of the legal heirs and other witnesses were recorded. It surfaced that the deceased had sold her house with the assistance of the present applicant, to whom she had entrusted a substantial portion of the sale proceeds i.e. Rs. 24,00,000/- as *Amanat*, ostensibly for making arrangements to visit her relatives in Bangladesh. Thereafter, she went missing and was later found dead under the aforementioned circumstances.

6. Co-accused Muhammad Iftikhar, who is husband of the present applicant was arrested and during police custody confessed to committing the murder on account of the deceased's repeated demands for return of her entrusted money. He led the police to the place of occurrence and to the site where the body was disposed of. Although he subsequently retracted his confession before the learned Magistrate, his earlier statement, supported by other investigative material, forms part of the circumstantial chain. Importantly, the statement of the present

applicant under Section 161 Cr.P.C. reveals her acknowledgment that the deceased frequently visited her residence and treated her with maternal affection. She also admitted having received the house sale amount, though claimed to have returned it, an assertion unsupported by any documentary proof. Furthermore, CDR analysis indicates consistent and timely communication between the applicant and co-accused, including on the day of occurrence and at times correlating with the commission of the offence. In addition, digital evidence including audio messages from the applicant's phone and exchanges with the purchaser of the house and the deceased's family further connect her to the transaction and the events leading up to the incident. The Investigating Officer has also reported that the applicant has remained non-cooperative and has attempted to obstruct the progress of the investigation.

7. The nature of the offence under Section 302 PPC is heinous and falls within the prohibitory clause of Section 497 Cr.P.C. It is well-settled that the grant of pre-arrest bail is an extraordinary relief to be extended only where there is clear evidence of mala fide intent or ulterior motive on the part of the police to harass or humiliate the applicant. However, in the present case, no such circumstances have been convincingly demonstrated. On the contrary, the applicant's close association with both the deceased and the co-accused, the substantial financial motive, and the available circumstantial evidence collectively point towards her potential involvement. Although the applicant has pleaded her gender and medical condition as grounds for pre-arrest protection, such factors, though not irrelevant, cannot be considered determinative in a case involving the brutal murder of a vulnerable individual, especially when the investigation is still ongoing and her custodial interrogation may yield critical evidence.

8. The learned counsel for the applicant has placed reliance on various case laws in support of the bail plea; however, each of them is distinguishable on facts. In 2023 SCMR 364, bail was granted on the ground that the case was a *silent one*, devoid of any circumstantial chain of evidence linking the accused to the offence. In contrast, the present case is supported by a strong and coherent chain of circumstantial

evidence, anchored in a clear financial motive and supported by digital and testimonial material, pointing towards the applicant's possible involvement in the brutal murder of an elderly woman. The second precedent cited, 2024 SCMR 476, pertains to *post-arrest bail* granted on the ground of *further inquiry*. However, the scope and judicial considerations governing pre-arrest bail are materially different, as such relief is discretionary and sparingly granted in exceptional circumstances, particularly in cases not falling within the prohibitory clause. The third reference, 2022 YLR Note 82, dealt with grant of bail primarily on account of *delayed reporting*, which was viewed by the Court as suggestive of deliberation and consultation. Conversely, in the present case, the FIR was lodged promptly after the recovery of the body, and there is no indication of any delay or fabrication in the initial reporting. Thus, while the cited precedents articulate valuable principles, they are respectfully distinguishable and offer no direct assistance in the peculiar factual context of the present matter.

9. No material has been placed on record to show that the applicant is being falsely implicated or that the police are acting with mala fide intent. While the allegations against her are yet to be conclusively proved, they are neither baseless nor lacking in substance to warrant pre-arrest bail at this stage. It must be emphasized that the adequacy or otherwise of the evidence is a matter for trial and cannot be conclusively assessed at the bail stage unless the accusation is demonstrably fabricated or actuated by ill will, which is not the case here. False implication is not spurred out from the record. The concession of pre-arrest bail is an extra ordinary relief, which is meant only for innocent persons where the intended arrest of an accused is found to be actuated with mala fide on part of the complainant or the police. I have not seen any malice or ulterior motive on part of the complainant/police to falsely implicate the applicant therefore, she is not entitled to the extra-ordinary relief of pre-arrest bail as claimed for. Reliance is placed on cases reported as *Gulshan Ali Solangi and others v. The State through P.G. Sindh* (2020 SCMR 249). In this respect, reliance is further placed in case reported as *Ahtisham Ali v. The State* (2023 SCMR 975), it has been held that:-

"It is well settled exposition of law that the grant of pre-arrest bail is an extraordinary relief which may be granted in extraordinary situations to protect the liberty of innocent persons in cases lodged with, mala fide intention to harass the person with ulterior motives. By all means, while applying for pre-arrest bail, the petitioner has to satisfy, the Court with regard to the basic conditions quantified under section 497 of the Code of Criminal Procedure, 1898 ("Cr.P.C") vis-a-vis the existence of reasonable grounds to confide that he is not guilty of the offence alleged against him and the case is one of further inquiry."

10. In view of the above discussion and keeping in mind the settled principles governing pre-arrest bail, I find no reasonable ground to believe that the applicant is being falsely implicated with mala fide intent. The allegations against her require deeper probe and custodial interrogation. The case does not fall within the category of further inquiry at this stage, nor does it warrant extraordinary indulgence of this Court in granting protection against arrest. Accordingly, the instant bail before arrest application stands dismissed and interim order dated 03.02.2025 recalled.

J U D G E