

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 740/2025

Applicant : Mst. Tehreen wife of Hamza
Through Syed Zainuddin Agha, Advocate

Respondent : The State
Through Mr. Tahir Hussain, Addl. P.G
Sindh

Date of hearing : 07.05.2025

Date of order : 12.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Mst. Tehreen seeks post-arrest bail in a case bearing Crime No. 325/2024, for offence under section 302/201/34 PPC of P.S Surjani Town, Karachi. Prior to this, the applicant had sought the same relief before the learned Additional Sessions Judge, Karach West, which was declined vide order dated 26.02.2025.

2. As per the contents of the FIR, on 13.03.2024, a decapitated male dead body aged around 30/32 years was recovered from a public road and was sent to Abbasi Shaheed Hospital for post-mortem. Initially unidentified, the body was later recognized as that of Shahnawaz by his uncle Ghulam Mustafa, who also provided a background of the deceased's marital relations, including his association with the alleged main accused Mehnaz Akhtar. The investigation led to the arrest of Mst. Mehnaz Akhtar and her son Hamza, who, as per the prosecution, confessed their involvement in the murder and stated that the deceased was first made intoxicated and then his throat was slit while he slept. The body was allegedly wrapped and disposed of in a rickshaw with the assistance of applicant (Tehreen). It is alleged that applicant was present at the time of disposal and knowingly facilitated the crime by accompanying the accused to Layari where the body was dumped. She was later arrested at Liaquatabad area and, according to the police, also made an extra-judicial confession admitting knowledge of the murder. Statements of various witnesses including the deceased's mother Mst. Husna and friends of the deceased implicate the applicant by alleging that she was present during the disposal of the body and took part in covering up the offence.

3. Learned counsel contends that the applicant is a woman and mother of a minor son aged about 14 years, who is also in her custody; there is no direct allegation of her participation in the actual murder; at best, the prosecution's case against her rests on statements that she accompanied the principal accused after the incident. No incriminating article has been recovered from the possession of the applicant. The alleged confession made by the applicant is not admissible

under Article 38 of the Qanun-e-Shahadat Order, 1984, being extra-judicial and made in police custody. The applicant has been falsely implicated merely due to her relation as wife of co-accused Hamza. The case requires further inquiry within the meaning of Section 497(2) Cr.P.C.

4. Conversely, learned APG opposed the grant of bail and argued that the applicant was present at the scene of disposal of the dead body and knowingly facilitated the concealment of the offence. The statement of Mehboob Ali, the rickshaw driver, and other eyewitnesses directly place the applicant at the spot, participating in the transportation of the deceased's body. The applicant is not merely an accessory after the fact, but actively helped in destruction of evidence and abetted the concealment of the crime. She has failed to establish any mala fide on the part of the complainant or investigating agency. Offence under Section 302 PPC carries capital punishment and falls within the prohibitory clause of Section 497 Cr.P.C.

5. Admittedly, the applicant is not alleged to have committed the actual act of murder. However, her implication arises from the statements of co-accused and independent witnesses who have consistently stated that the applicant accompanied the main accused during the disposal of the dead body. The statement of rickshaw driver Mehboob Ali is of significance, who identified the applicant as being present during the disposal process in the early hours of 13.03.2024. The mother of the deceased has also implicated the applicant.

6. Moreover, the applicant appears to have had knowledge of the murder and, instead of reporting the crime, allegedly aided in removing evidence by participating in the concealment of the body. These allegations, if established, may attract not only Section 201 PPC but potentially also Section 302 PPC by way of common intention or abetment, subject to evidence at trial. While the confession attributed to the applicant is not admissible in itself, the presence of corroborative evidence including eyewitness accounts and circumstantial material strengthens the prosecution case at this stage. The mere fact that she is a woman or mother of a minor child, though a mitigating factor, cannot by itself outweigh the seriousness of the offence and the material available on record.

7. At this stage, I am of the considered view that the applicant has failed to make out a case of further inquiry within the meaning of Section 497(2) Cr.P.C., nor is her case covered under the exceptions carved out for grant of bail in offences falling under the prohibitory clause. Accordingly, the instant bail application stands dismissed. The observations made herein are tentative in nature and shall not prejudice the trial court in deciding the matter on merits.

J U D G E