

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.117 of 2025

Applicant : 1. Mst. Shaheen Bibi W/o Bahadur  
2. Qaiser Khan son of Iqbal Rehman,  
through Mr. Saba Khan, Advocate

Respondent : The State  
Through Ms. Rubina Qadir, DPG Sindh

Date of hearing : 29.05.2025

Date of order : 29.05.2025.

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicants, Mst. Shaheen Bibi and Qaisar Khan, seek pre-arrest bail in a case bearing crime No.885/2024 offence u/section 302/34 PPC of P.S. Manghopir, Karachi. Earlier their bail plea was declined by the court of learned Xth Additional Sessions Judge Karachi West vide order dated 20.12.2024.

2. Concisely, the facts segregated from the FIR lodged by complainant Attaullah Khan are that on 02.12.2024, at about 6:30 p.m. received a phone call from her sister's mother-in-law that her sister, Habiba Bibi had expired. Upon reaching the deceased's residence at Shah Jillani Society, Khairabad, Manghopir, the complainant found her sister's dead body. The deceased's mother-in-law informed the complainant that her sister had committed suicide. Consequent upon, the case was registered showing suspicion against the in-laws of her sister for committing her murder by showing it suicidal death.

3. Learned counsel for the applicants mainly contended that applicants are innocent and have been falsely implicated in this case by the complainant, allegedly in collusion with the police, driven by malafide intentions and ulterior motives. They assert no involvement in the alleged crime. The liberty of respectable citizens is being unjustly curtailed through involvement in a false criminal case, for reasons not contemplated by law. It is contended that the deceased sister of the complainant was a "psycho patient" and was alone at home at the time of the incident. The applicants and other family members were out of the house. In the interim, the deceased herself committed suicide. It is claimed that "Mohalla people" witnessed the alleged incident and subsequently informed the applicants about the suicide via phone call. The complainant, however, with malafide

intention, implicated the applicants based solely on suspicion. The deceased was reportedly under treatment by Dr. Zulqarnain at Ali Habib Medical Center, Naya Nazimabad, Karachi, with her last visits recorded on 15.10.2024, 22.10.2024, and 05.11.2024. The original treatment file is stated to be in the complainant's possession, which could substantiate the claim of her mental health condition. It is alleged that neighbors/witnesses approached the Police Station I.O. and recorded their statements, but the I.O., in collusion with the complainant, has failed to produce or file these statements in the police record, implying these statements support the defense's narrative of suicide. Crucially, there is no direct eye-witness to the alleged incident, which weakens the prosecution's case at this preliminary stage. There is an inordinate delay of four days in the lodgment of the FIR, for which no plausible explanation has been provided by the complainant, raising doubts about the veracity and spontaneity of the allegations. The entire prosecution story is asserted to be full of doubts, casting a cloud over the connection of the accused with the commission of the crime, thereby entitling them to the concession of bail. It is argued that there is no "iota of evidence" against the applicants to connect them directly with the commission of the alleged offense, thus making it a fit case for "further inquiry" as per Sub-Section (2) of Section 497 Cr.P.C., mandating the extension of bail concession. The applicants hail from a noble family and possess no previous history of involvement in any criminal case. He lastly prayed that interim bail of accused may be confirmed.

4. Conversely, the learned DPG for the State vehemently opposed the pre-arrest bail application. It was contended that the Challan contains details of 06 injuries, and the Post-Mortem report unequivocally indicates a homicidal death, thereby directly refuting the defense's claim of suicide. Furthermore, the DPG highlighted that the death occurred inside the house, and in such circumstances, the burden to explain the circumstances leading to the death lies squarely upon the accused party, especially when they are residents of the premises.

5. Heard the elaborate arguments advanced by the learned counsel for the applicants and the learned DPG for the State. I have also meticulously perused the available record, including the contents of the FIR, the grounds agitated in the bail application, and the arguments presented.

6. At the stage of considering pre-arrest bail, the Court is primarily concerned with a tentative assessment of the available material to determine whether there are reasonable grounds to believe that the accused has committed a non-bailable offence. A deeper appreciation of evidence or a conclusive finding on guilt or innocence is neither permissible nor desirable, as it may prejudice the trial.

7. In the instant case, several factors weigh in favour of granting the concession of pre-arrest bail. Firstly, the FIR itself is based on suspicion, as explicitly stated by the complainant, who was not an eye-witness to the incident. The complainant's statement that he "himself not see my sister with tie rope on her neck" and his subsequent lodging of the FIR after "consultation" and "doubt" upon the applicants, rather than direct knowledge, is a significant point. Secondly, the defense has raised a plausible counter-narrative, asserting that the deceased was a "psycho patient" and committed suicide while alone at home. The claim of her ongoing medical treatment by Dr. Zulqarnain, with specific dates of visits, requires further investigation and verification during the trial. The alleged statements of "Mohalla people" supporting the suicide theory, if proven, would further weaken the prosecution's initial stance. The non-production of these alleged statements by the Investigating Officer, if true, also raises questions.

8. Thirdly, the inordinate delay of four days in lodging the FIR, without a satisfactory explanation, often casts a shadow of doubt on the prosecution's case, as it provides ample opportunity for deliberation and concoction. While the learned DPG relies on the post-mortem report indicating homicidal death and the presence of injuries, these findings, at this stage, do not conclusively rule out the possibility of "further inquiry" as contemplated by Section 497(2) Cr.P.C. The nature of the injuries and the exact circumstances leading to them will be thoroughly examined during the trial. The burden of proof argument advanced by the State is relevant during trial, but at the bail stage, the Court must assess whether there are reasonable grounds for believing the accused has committed a non-bailable offence. Where a plausible defense is presented, and the prosecution's case appears to be based on suspicion rather than direct evidence, the principle of "further inquiry" becomes applicable.

9. Considering the absence of any direct eye-witness, the FIR being based on suspicion, the arguable defense regarding the deceased's mental health and the applicants' absence, the alleged suppression of

witness statements, and the delay in FIR, this Court is of the tentative view that the case against the applicants falls within the ambit of "further inquiry." The liberty of a citizen is paramount and should not be curtailed on mere presumptions or assumptions. Guilt or innocence would be determined after full-fledged trial.

10. For the foregoing reasons, the interim pre-arrest bail granted to the applicants, Mst. Shaheen Bibi and Qaisar Khan, is hereby confirmed on the same terms and conditions. Applicants are directed to cooperate with investigation and join trial.

**JUDGE**