

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

**Cr. Bail. Application No.874 of 2018**

Date	Order with Signature of the Judge
------	-----------------------------------

Date of hearing	:	20 <sup>th</sup> August, 2018
Date of order	:	29 <sup>th</sup> August, 2018
For Applicant/accused	:	Mr. M. Ashraf Hussain, Advocate.
The State	:	Ms. Seema Zaidi, D.P.G

-----

**Kausar Sultana Hussain, J.**:- This bail application filed under Section 497 Cr.P.C. on behalf of applicant/accused *Kamran alias Bijju son of Muhammad Saleem* in Crime No.102/2016, Police Station Sharifabad, District Karachi, Central for offence under Section 302/34 PPC.

2. Succinct the case of prosecution is that the complainant Muhammad Islamuddin recorded his statement under Section 154 Cr. P.C. at the mortuary of Abbasi Shaheed Hospital, Karachi wherein he stated that today on 22.06.2016, he received information on cell phone that his elder brother Aleemuddin, who was an employee at Raheel Bakery, Sharifabad has been shot at, and is being taken to Abbasi Shaheed Hospital, when he reached the Hospital, he was informed that his brother is expired. According to prosecution applicant/accused was subsequently arrested in another crimes, vide FIR No.237/2017, under Section 354 PPC and FIR No.241/2017 under Section 6, 9(c) C.N.S Act, 1997 and during the course of investigation and interrogation, applicant/accused revealed that while perpetrating dacoity alongwith his accomplice Shan son of Ghulam Noorani in Raheel Bakery during the holy month of Ramzan, they injured a person with fire shot, who later on succumbed to injuries as subsequently revealed to him. Accordingly on the pointation of applicant/accused, the place of occurrence, he was arrested in present crime on 27.12.2017.

3. Heard learned counsel for the applicant/accused, learned Deputy Prosecutor General for the State and perused the material placed on record of the case.

4. Admittedly, applicant accused was arrested on 27.12.2017 and was subject to interrogation by the police. However it transpired that prosecution could not bring any independent evidence against the applicant/accused, which could connect him with the commission of crime in the instant case. The only evidence available is the statement of applicant/accused given by him before police during custody. The statement of the accused before police during his confinement is not admissible in case under Ordinance 38 & 39 of Qanoon-i-Shahadat Order, 1984. Police has also failed to recover weapon allegedly used in the commission of crime. So much as prosecution failed to prefer before this Court F.S.L. report of empties and Sikkas retrieved from the place of occurrence viz; Raheel Bakery Sharifabad.

5. Considering the above facts and circumstances, further detention of applicant/accused in the instant crime will not serve any useful purpose as the prosecution has neither any eye witness in the calendar of witnesses mentioned in column No. 6 in the Challan nor circumstantial or corroborative evidence, which may lead to connect the applicant/accused with the present crime. Moreover, applicant/accused is in custody since past eight months without any substantial progress in the trial proceedings. As such bail cannot be withheld for indefinite period. Prime facie applicant/accused made out his case for the concession of bail as the same falls within the ambit of further enquiry as envisaged in section 497 (2) Cr.P.C.

6. Accordingly applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs. 2,00,000/- (Two Hundred Thousands only) with P.R. Bond in the like amount to the satisfaction of learned trial Court.

7. The above observations are tentative in nature and shall not prejudice the case of either party during the trial.

**J U D G E**