

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CrI. Bail Appln: No. 152 of 2018

Date Order with signature of Judge

FOR HEARING OF BAIL APPLICATION

(Notice issued to I.O. for 26.2.2018)

Mr. Shah Imroz Khan, Advocate for the applicant.
Mr. Ali Anwer Khandro, ADPP, alongwith Inspector Mir Muhammad

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By this order I intend to dispose off the instant bail application moved the on behalf of the applicant/accused Tariq Mehmood S/o. Shaikh Muhammad Alam. At first instant, the above named applicant/accused has moved Cr. Bail Application No. 74/18, before the learned VIIIth Additional Sessions Judge, Karachi East, which was declined on 23.1.2018.

Brief facts leading to filing of this Cr. Bail Application are that complainant Hamid Farooqui son of Hakimuddin disclosed that he is been residing at House No. C-305, Bagh-e-Korangi, near Soch hospital, Karachi. He got his daughter Sarwat Jahan Farooqui @ Ashi married 14 years back with Muniruddin son of late Khursheed and she has three daughters. Sarwat Jahan Farooqui was ill from last three/four years and she was under treatment. On 26.11.2017 his daughter Naseema Jahan Farooqui at 9:00 a.m. informed him that Sarwat Jahan Farooqui has been died. On this information he alongwith his daughter went to the house of Sarwat Jahan Farooqui, at House No. R-75/1, Al-Badar Society, Malir, Halt Karachi and found his daughter dead, lying on the bad wearing shalwar Kameez. He told Muniruddin his son-in-law to bury his daughter after full body ritual purification and Namaz-e-Janaza but Muniruddin refused to do all this and called an ambulance with the help of his friends and afterwards he buried the dead body in the same cloths without observing Islamic ritual of giving her last bath and shroud including Janaza prayer. The complainant claimed that co-accused Muneeruddin with the help of his unknown friends

murdered her and in order to conceal their offence they buried her in that manner.

In support of his arguments, Mr. Shah Amroz Khan, learned counsel for the applicant/accused has contended that the case against the applicant/accused is false, as not even a single witness has disclosed the name of applicant/accused. Name of applicant/accused is also not being mentioned in the FIR. It is also contended by the learned counsel for the applicant/accused that no 164 Cr.P.C. statement of the co-accused Muniruddin was recorded by the I.O. before the concerned Magistrate, therefore this confessional statement before police has no value in the eyes of law. Applicant/accused is a religious person and he is just being dragged in this case. No statement of Chippa Ambulance Driver was recorded by the I.O, who took the dead body to graveyard and buried the deceased in the grave. There is also a delay of 20 days in lodging the FIR and there is no explanation of such delay. No private witness has been produced from the thickly populated area of co-accused Muniruddin. No MLO or chemical examination report has been submitted. There is no direct evidence against the applicant/accused.

On the contrary learned APG has opposed the bail application on the ground that main accused Muniruddin confessed before the police by disclosing the names of present Applicant/accused that they helped him in burial process of dead body. Postmortem report also confirms the unnatural death of the deceased.

Heard and while perusal of the record with due care and caution, it reveals that after lodging FIR co-accused Muniruddin was arrested in instant crime and on his pointation co-accused Muhammad Khalid Shehzad, Syed Wajih-ur-Rehman Kashif and applicant/accused Tariq Mehmood were arrested. Allegations of complainant against

applicant/accused Tariq Mehmood is that he being friend of the co-accused Muniruddin provided him help and buried his deceased daughter without giving last bath and shroud, therefore, he has doubt that the applicant/accused is also involved in murder of his daughter with co-accused Muniruddin. Per record of police file, on complaint of the complainant, the I.O. obtained permission from Court concerned and after that exhumation and post mortem of his deceased daughter was conducted. On the basis of post-mortem examination of the deceased lady, the examination board has unanimously opined that death of deceased occurred due to asphyxia caused by constriction of neck and dead body of deceased lady was found in same dress as disclosed by the complainant in his FIR. In view of foregoing reasons it appears that the case against the Applicant/accused requires further enquiry as no evidence against Applicant/accused for providing help to co-accused Muniruddin in commission of murder of his wife is on record as alleged by the complainant, however the private witnesses of the prosecution have claimed that unknown friends of the co-accused Muniruddin took the dead body in ambulance and provided help for her sepulture without last bath and shroud which amounts to insult of the religion of the human corpse. Allegations imposed by the complainant witnesses against the applicant/accused fall under Section 297, 202 and 201 of PPC and all these provisions of law of PPC areailable, while the allegation of helping of co-accused Muniruddin in the murder of the daughter of complainant requires further enquiry. I, therefore, grant bail to applicant/accused subject to furnishing surety amount of Rs.100000/= only with P.R. bond in the like amount to the satisfaction of Nazir of the trial Court.

This order is tentative in nature and the observations made hereinabove will not influence the trial court for adjudication of the case.

Dated.16.03.2018

Menohar/PA

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