

ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Bail Appln. No. S-346 of 2022

Applicant : Abdul Rahim Son of Sher Muhammad Jakhrani
Through Mr. Saeed Ahmed Bijarani,
Advocate

Complainant : A.S.I. Muhammad Moosa Domki (on behalf
of State)

The State : Mr. Khalil Ahmed Metlo, A.P.G

Date of hearing & order: 01-08-2022

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ORDER

Adnan-ul-Karim Memon, J. Through instant bail application, the applicant seeks pre-arrest bail in Crime No. 45/2022 registered at P.S. Buxapur for the offenses under section 302, 311, 34 P.P.C., inter-alia on the ground that he has nothing to do with the alleged offense of murder of deceased lady; that the incident is unwitnessed; that there is a delay in lodging of the F.I.R; that the complainant and his witnesses have sworn affidavits to the effect that the applicant is innocent.

2. The learned counsel for the applicant submits that the applicant has been falsely implicated in this case by the police, therefore, they mischievously named the applicant in the FIR, though the father and mother of the deceased have narrated the different stories of the alleged incident; besides, the applicant was not present at the place of occurrence and has no link with any alleged murder of deceased lady Mst. Nasima Khatoon alias Sabiran.

3. On the other hand, the learned APG assisted by the Investigation Officer of the case has maintained that the applicant is named in the promptly lodged FIR with a specific role of having caused the death of the deceased lady Mst. Nasima Khatoon alias Sabiran; that the ocular account is corroborated by medical evidence, that the recovery of the weapon is yet to be effected from the applicant, though the empties were recovered from the scene of offense and forensic report is positive. Besides, the above there were/are reasonable grounds to believe that the applicant is involved in committing the offenses under sections 302, 311, and 34 PPC, which entail punishment of death and, therefore, there

was/is no case for grant of bail before arrest. Learned APG relied upon the case of *Gulshan Ali Solangi V. the State through P.G Sindh (2020 SCMR 249)*. He prayed for the dismissal of the bail application. The aforesaid stance has been refuted by the learned counsel for the applicant by relying upon the unreported order dated 7.6.2021 passed by this Court and affidavits of the father, mother, and brother of the deceased and further submitted that at the time of the alleged incident there was dark as such identity of the applicant could not be ascertained which factum requires further probe as such the applicant is entitled to the confirmation of pre-arrest bail.

4. I have heard the learned counsel for the parties, perused the record, and also examined the case law on the subject.

5. As per prosecution narration where there is a specific allegation of having caused a death of a young lady Mst. Nasima Khatoon alias Sabiran against the applicant and prima-facie there is sufficient material available on the file in the shape of the ocular account being corroborated by the medico-legal evidence, bail before arrest cannot be granted, in such circumstances where the case involves the punishment of 311 PPC.

6. In principle, the grant of pre-arrest bail was/is a remedy most extraordinary in nature, extended by diverting the usual course of law for the sole purpose of protecting the reputation and honor of an innocent citizen being hounded through abuse of the process of law for purposes sinister and oblige, such protection was/is based upon equity and could not be extended in every run-of-the-mill criminal case, prima facie founded upon incriminatory evidence, warranting custody for investigative purposes.

7. In view of the foregoing reasoning, prima facie, the applicant has not been able to make out a case for the grant of pre-arrest bail as provided under section 498-A Cr.PC; and, the instant bail application is dismissed, and the interim order dated 5.7.2022 is recalled.

8. The observation recorded hereinabove is tentative and shall not prejudice the case of either party.

J U D G E