

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 92 of 2018

Applicant : **Jahanzaib Ameen**
through Mr. Ovais Ali Shah, Advocate

Versus

Respondent : **The State**
through Mr. Abrar Ali Khichi, DPG

Date of short order : 09-04-2018

Date of detailed reasons: 16-04-2018

ORDER

Omar Sial, J: Jahanzaib Ameen has sought post arrest bail in crime number 192 of 2017 registered u/s 302 and 34 P.P.C. at the Liaquatabad police station in Karachi. Earlier, his post arrest bail application was dismissed by the learned District & Sessions Judge, Central, Karachi on 19-12-2017.

2. Brief facts of the case are that one Dilawar Khan, resident of Hyderabad, reported that his daughter Sana was married to Jahanzaib (the applicant). On 8-10-2017 he received a phone call from his daughter asking him to come to Karachi as she had a quarrel with her husband. Subsequently, Dilawar tried to call Sana but her phone was powered off. Upon trying to call her again, her phone was answered by Sana's landlady who told Dilawar that Sana's body was found hanging from a fan and that the dead body has been taken to the hospital. Dilawar held the appellant and his father responsible for the murder and thus nominated them in the FIR.

3. I have heard the learned counsel for the applicant as well as the learned counsel for the complainant and the learned D.P.G. My observations are as follows.

4. It is an admitted position that this was an unseen murder. Both, the applicant and the deceased, were police commandos and it appears that it was the second marriage for both. It also appears that the relationship between husband and wife may

not have been the best of relationships. The evidence on record appears to show that the deceased was previously married to one Shahbaz who had accidentally found out that she had an affair with the applicant. This discovery was the beginning of what appears to be an unhappy relationship between the applicant and the deceased. It does not appear from the record that Shahbaz has been investigated to date.

5. Upon a query from the learned D.P.G who was assisted by the learned counsel for the complainant, as to what was the evidence available till now that would prima facie show a nexus between the crime and the applicant, apart from the submission that the couple did not have a happy relationship, he was unable to point out any other evidence in the possession of the prosecution at this stage. The learned counsel for the complainant however further argued that the body was found from inside the apartment and that when it was discovered by the landlady, the door was locked. He therefore argued that it was only the applicant who had a key to the apartment and only him who could enter the apartment. Prima facie, the record does not appear to support this argument. The landlady Rukhsana in her section 161 statement has said that the door was opened by her brother Laiq by standing on a stool and putting his hand inside. No commotion or noise was heard by any witness whose statements have been recorded as yet. There is no witness who last saw the deceased.

6. The mother of the deceased, Fayyaz Akhtar, in her section 161 Cr.P.C. statement has stated that on 8-10-2017, she had called Sana who had told her that she was upset and that she was returning from the applicant's house with her father in law Amin. Amin was admitted to post arrest bail. The bail granted to Amin has not been challenged by the State or the complainant. The applicant's case being on a better footing than Amin he would be entitled to the same concession on the ground of consistency.

7. S.I. Inspector Hamid Ali Gondal in his section 168 Cr.P.C. report has stated that when he inspected the place of incident he did not find anything with which the deceased could have hung herself but that there was a piece of rope nearby. This statement prima facie is negated by the photographs and statement of witnesses on record. Irrespective of the fact that according to the doctor this was not suicide, it is only at trial that it can be conclusively established whether this is a case of suicide or

murder. I have intentionally restrained from giving any observations which might prejudice the case of either side at trial.

8. In view of the evidence available on record at present, it appears that the case of the applicant falls within the ambit of section 497(2) Cr.P.C. and thus one of further enquiry.

9. Above are the reasons for my short order of 9-4-2018 in terms of which the applicant was admitted to post arrest bail subject to his furnishing a solvent surety in the amount of Rs. 500,000 and a P.R. bond in the like amount to the satisfaction of the learned trial court.

JUDGE