

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1039 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

13th December, 2021

Mr. Khan Muhammad, Advocate for applicant.
Mr. Abrar Ali Khichi, Addl.P.G.

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Omar Sial, J: Muhammad Mohsin Khan has sought post arrest bail in crime number 15 of 2020 registered under section 302 P.P.C. at the Surjani Town police station. Earlier, his application seeking bail was dismissed on 3-5-2021 by the learned 10th Additional Sessions Judge, Karachi West.

2. Facts of the case are that the aforementioned F.I.R. was registered on 8.1.2020 on the complaint of Sajid Nisar. He recorded that he works for the Pakistan Army and is posted in Mangla. His wife Salma lived with their two sons aged 16 and 14 in Karachi along with Salma's mother. On 5-1-2020 the complainant was informed by his neighbor that while his wife Salma was alone at home some unknown person had murdered her.

3. The investigating officer was asked as to what was the evidence available on which the applicant was arrested in the present crime. He replied that one Tasawur Ali had seen the applicant leave the house where the incident occurred. After his arrest the applicant allegedly confessed having committed the murder and led the police to the shirt he was wearing on the day of the incident.

4. I have heard the learned counsel for the applicant as well as the learned Additional Prosecutor General. The complainant, through the investigating officer of the case, informed the court that he did not want to be represented and that he stands by only with what he had recorded in the F.I.R. My observations and findings are as follows.

5. The incident is said to have occurred on 5-1-2020 but it was not until 10.1.2020 that it is said that Tasawur Ali himself arrived at the police station and told the police that he had seen a person leaving the house of the complainant

and subsequently Tasawur Ali also identified the applicant in an identification parade. The investigating officer was unable to however explain as to what was Tasawur Ali doing outside the house of the complainant; how did he know that the house was the complainant's; how did he know that a murder had occurred at that house; why did it take him 5 days before he arrived all by himself to the police station. The statement recorded by this Tasawur Ali which was read out by the learned Additional Prosecutor General is unsatisfactory to say the least. The authenticity of Tasawur's claim will have to be proved at trial when an opportunity to cross-examine him is given to the defence. Upon a tentative assessment I also find it unnatural that the shirt of the applicant was lying in a bush in a ground for 16 days before he took the police to it. Prima facie it appears that an extremely weak investigation has been made in this case and in light of the evidence that the police has collected, the nexus of the applicant with the offence for which he is charged requires further inquiry.

6. Above are the reasons for the short order dated 29-11-2021.

JUDGE