

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 1538 of 2021

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

6th January, 2022

Mr. Sathi M. Ishaq, Advocate a/w S.K. Lodhi for applicant.
Mr. Altaf Hussain Khoso, Advocate for complainant.
Mr. Ali Haider Saleem Addl.P.G. a/w SIP Nisar Ahmed Soomro, I.O.

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Omar Sial, J: George has sought post arrest bail in crime number 221 of 2021 registered under sections 302 and 34 P.P.C. at the Baloch Colony police station in Karachi. Earlier, his application seeking bail was dismissed by the learned 2nd Additional Sessions Judge, Karachi South on 8-7-2021.

2. A background to the case is that the aforementioned F.I.R. was registered on 21-5-2021 on the complaint of Naseem Gill. Gill recorded that on 17-5-2021 her daughter Mishal had gone to her husband Wilfred's house at 6:30 a.m. At 8:20 a.m. Wilfred called Gill and told her that Mishal had come home but left soon thereafter after taking some files with her. Wilfred called again and told Gill that Mishal had gone to her sister in law Jacqueline's house. Later he called again and told Gill that Mishal was being taken to the hospital. Gill along with her brother Javed and daughter Sairish went to the hospital and saw that Mishal was dead and that there were black spots on her body. Wilfred, along with George the applicant herein and one Jackson were present at the hospital. The F.I.R. was registered against Wilfred, George and Jackson.

3. I have heard the learned counsels for the applicant and the complainant as well as the learned Additional Prosecutor General.

4. Wilfred and Mishal had a love marriage on 26-11-2020. It appears that the relationship between the two subsequently were not pleasant. On the eve of Eid, the two had an altercation during a shopping session, which altercation saw Wilfred go in a fit of rage. Seeing Wilfred's rage, his father George and his sister Jacqueline reprimanded him. Upon Wilfred not calming down, George and Jacqueline left the scene to go back home. On 17-5-2021 Mishal called Wilfred

that she wanted to collect some of her things from home. She went there and got her belongings and left once again. Mishal then went to her father-in-law George's home. Wilfred also arrived there. He went up to Mishal in her room where according to him he found Mishal frothing at the mouth. She was taken to the hospital where she was pronounced dead. Wilfred's family termed it a suicide whereas Mishal's family said it was a murder. Mishal's post mortem revealed that she had died due to a morphine overdose.

5. Learned counsel for the applicant has argued that the applicant is an old man; that he is medically unfit; that there is a delay of 4 days in lodging the F.I.R.; that there is no role assigned to the applicant; that he has no crime record; and finally that the applicant has nothing to do with the death of Mishal. The learned Additional Prosecutor General on the other hand has argued that Wilfred is a man of a bad character and that investigations have revealed that Mishal was sick and tired of his philandering character as well as tired of regular beatings. He further argued that Mishal was in the process of seeking a divorce from Wilfred and therefore her committing suicide did not make any sense.

6. George in his section 161 Cr.P.C. statement has admitted that Mishal came to his house that day and was found dead by Wilfred when he came looking for her. According to the investigating officer of the case, while Wilfred had injected Mishal, George has actively aided and abetted in the murder by subduing Mishal while Wilfred administered the injections. It is an admitted position that it was not George who procured the morphine or any other injection (one vile was found during investigation) however the post mortem report expressed its inability to test for that medicine. The learned Additional Prosecutor General argued that George and Jacqueline had held down Mishal while Wilfred administered the injections. It is however an assumption which is being made at this stage and the assumption, in my view is not strong enough to deny George bail at this stage. In view of the evidence collected so far, it appears that a further inquiry is required to establish the George's nexus with the crime complained of. George is an old man of 69 years age and medically unfit. This factor also tilts the balance for grant of bail in his favour.

7. In view of the above, George is admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs. 100,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE