

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 2392 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**22-02-2023**

M/s. Javed Ahmed Chhattari and Saima, Advocates for applicant.  
Mr. Shoukat Ali Shehroze, Advocate for complainant.  
Mr. Talib Ali Memon, A.P.G.

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**Omar Sial, J.:** Hassan Ali has sought post arrest bail in crime number 313 of 2022 registered under sections 302, 109, 34 and 120-B P.P.C. at the New Town police station. Earlier, his application seeking bail was dismissed on 12.11.2022 by the learned 1<sup>st</sup> Additional Sessions Judge, Karachi East.

2. The aforementioned F.I.R. was registered on 27.07.2022 on the complaint of one Khurram Mustafa Suria. Suria reported that Rizwan Suria was his brother. On 26.07.2022 everybody in Rizwan's home, except Rizwan, had gone to visit relatives. When the family returned they found the door of the house open and Rizwan lying dead inside. The CCTC footage of the home showed 2 men in shalwar kameez coming into the house and the maid of the house, who had left earlier, also present. The F.I.R. was registered against the maid Tehmeena and 2 unknown persons.

3. How the applicant got nominated as an accused in this case is a convoluted story. It appears that it was alleged by the police that the deceased's wife, Noreen, had an extra marital affair with the applicant. Noreen had contacted her brother Mohammad Sajjad and told him that she was planning to murder Rizwan on the instigation and with the facilitation of the applicant. Mohammad Sajjad then contacted a hired assassin by the name of Mohammad Imran. According to the plan, Noreen had left the house on the fateful day. It is alleged that Noreen, before leaving the home, had disconnected the CCTV recording system and left the gate and the front door of the house open. Noreen then informed Sajjad and Imran that

Rizwan was alone at home. The 2 men had then gone and killed Rizwan. It was also alleged by the police that Noreen told them that the applicant had taken a loan of some crores from her deceased husband.

4. The call data record collected by the police further revealed that Noreen had remained in contact with the ostensible hired killer Mohammad Imran. The police had traced Mohammad Imran living in a hotel near the Railway station and that Mohammad Sajjad, Noreen's brother was with him.

5. I have heard the learned counsels for the applicant as well as the complainant and the learned APG. My observations and findings are as follows.

6. The evidence against the applicant at this stage appears to be what has been recorded by Noreen. From what she says, upon a tentative assessment, it appears that she planned the murder and that her brother Sajjad was instrumental in engaging the services of Mohammad Imran for the job. The applicant has been assigned the role of abetting the murder; however, apart from the extra-judicial confession made by Noreen, no other evidence has surfaced which would link the applicant with the crime. It has been alleged that the applicant had taken a loan from the deceased and that perhaps the pressure of returning that money may have been instrumental in the applicant seeking the elimination of the deceased. The police however failed to collect any evidence in this regard. In view of the evidence which the police has collected against the applicant it surely appears that the case against him is one of further inquiry.

7. The learned APG has relied upon **Mohsin Ali vs The State (2016 SCMR 1529)**. With much respect the decision cited is not relevant in the present case. In that case bail was cancelled on the ground that the applicant had been nominated in the F.I.R. as being the person who had shot and killed the deceased in that case. Reference to abetment in that case was only from the perspective that the investigating agency had initially alleged that the applicant had only planned the murder. The other

case relied upon by the learned APG was **Mamaras vs The State and others (PLD 2009 SC 385)**. The Honorable Supreme Court, in this case too, did not lay down a universal principle. The Court noted that in that case bail in abetment cases could be denied if the court came to the view based on the evidence before it that it was a case of further inquiry. In that case the Court had relied on 2 judicial confessions made by 2 brothers who had implicated their 3<sup>rd</sup> brother as being one person behind a shooting which had killed 9 and injured 5 persons. In the present case neither has a judicial confession been made by any of the accused, and as mentioned above, a case of further inquiry has been made out. The last case relied upon by the learned APG was **Ghulam Ahmed Chishti vs The State and another (2013 SCMR 385)**. In my opinion, the headnote of the said judgment is slightly misleading. The issue was that that the applicant in that case was nominated specifically as a person who had shot and killed the deceased in that case and that there was a dying declaration by the deceased which had also implicated the applicant as a person who had shot him. In that case the car used in the crime was being driven by the driver of the applicant. The applicant had claimed that he was not present in the country when the incident took place. The current case is different. It is not alleged that the applicant was one of the 2 persons who had come into the house to kill the deceased.

8. In view of the above, I am of the opinion that the case of the applicant requires further inquiry. He is therefore admitted to post arrest bail against a surety in the amount of Rs. 1 million and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE