

# IN THE HIGH COURT OF SINDH AT KARACHI

## Crl. Bail Application No. 2107 of 2023

Applicant : Ghulam Hussain  
through Mr. Muhammad Sharif Buriro, Advocate

Respondent : The State  
through Mr. Muhammad Iqbal Awan, Addl.P.G.

Date of short order : 15<sup>th</sup> December, 2023

Date of reasons : 20<sup>th</sup> December, 2023

### ORDER

**OMAR SIAL, J.**: Ghulam Hussain has sought post-arrest bail in Crime No. 607 of 2020, registered under sections 302 and 34 P.P.C. at the Saeedabad police station. Earlier, his bail plea was dismissed on 11.4.2023 by the learned 2<sup>nd</sup> Additional Sessions Judge, Karachi West.

2. The FIR mentioned above was registered on 19.10.2020 on the complaint of Zar Khan. Zar Khan reported that he was at work earlier that day when he was informed over the phone that his sister Rashida Bibi had been murdered by her husband Ghulam Hussain. He recorded that Rashida often fought with her husband and nominated four persons in the FIR: Ghulam Hussain (the applicant), Ahmed Khan, Nazar Muhammad and Ghulam Qadir. During the investigation, Zar Khan told the police that Rashida and Ghulam Hussain had a quarrel one month ago, due to which he had come to take his sister back home, but the matter was settled upon the accused, assuring him that they would take care of the situation. Ghulam Hussain, during his interrogation, told the police that he had killed his wife because she did not have a good character and that he had slit her throat and run away.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General. Several notices were issued to the complainant, but he did not affect an appearance.

4. Apart from the fact that Rashida Bibi was Ghulam Hussain's wife and that Ghulam Hussain made an extrajudicial confession, there is no other evidence that the police have gathered. As no discovery occurred after the extrajudicial confession, there is a strong possibility that the extrajudicial confession will be inadmissible in evidence pursuant to Articles 38 and 39 of the Qanoon-e-Shahadat Order, 1984. The other piece of evidence that the prosecution relies on is the recovery of the crime weapon. A knife was recovered from inside the house. At this stage, no forensic report is available to show a match of fingerprints. I also find it odd prima facie that Ghulam Hussain, after killing his wife, would leave the knife on the crime scene, knowing fully well that it has the potential to create a nexus between the crime and himself. I find it equally odd that the police could not collect any evidence in the shape of statements from other family members or neighbours of the couple. No investigation has taken place to determine whether the allegation of her character was correct. The only aspect, on tentative assessment, which goes against Ghulam Hussain is that the dead body was found inside his home. Ghulam Hussain's counsel argued that he is a labourer and for several days at a stretch, he would go away in connection with his work. When the murder took place, Ghulam Hussain was not home, and it was only upon his return that he discovered that his wife had been killed. Learned counsel submits that despite Ghulam Hussain's insistence, the investigating officer did not try to determine the truth of what Ghulam Hussain was saying.

5. The applicant has been in jail for over two years, and not even one witness has been examined. The impugned order reflects that the case has been unable to proceed because the prosecution witnesses do not appear in court despite issuing non-bailable warrants. Ghulam Hussain does not have a criminal record, and the delay in trial is not attributed to him. Given the above, Ghulam Hussain is entitled to bail because his case is one of further enquiry and pursuant to the third proviso of section 497 of Cr.P.C.

6. Above are the reasons for my short order dated 15.12.2023.

**JUDGE**