## ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1448 of 2023

Date Order with signature of Judge

\_\_\_\_\_

For hearing of bail application

**Date of hearing: 01.08.2023** 

Date of order: 08.08.2023

M/s. Muhammad Umar Farooq and Jan Muhammad advocates for applicant Mr. Zahoor Shah, Additional P.G along with SIP Muhammad Ajmal

-.-.-.

<u>Salahuddin Panhwar</u>, <u>J</u>:- It is alleged that the applicant allegedly committed murder of the deceased Hamza by causing him stone injury, hence the instant FIR was registered against him. The applicant after having refused bail from the trial Court has approached this Court for the same relief through instant bail application.

- 2. Heard and perused the record.
- 3. Perusal of record reflects that FIR has been lodged after delay of one day for which no plausible explanation has been furnished and admittedly the instant FIR has been registered after consultation and deliberation. The Apex court in the case of Noor Muhammad v. The State (2010 SCMR 97), has held that when the prosecution could not furnish any plausible explanation for the delay of twelve hours in lodging the FIR, which time appeared to have been spent in consultation and preparation of the case, the same was fatal to the prosecution case. In the case of Muhammad Fiaz Khan v. Ajmer Khan (2010 SCMR 105) it was held that when complaint is filed after a considerable delay, which was not explained by complainant then in such situation it raises suspicion as to its truthfulness. As per FIR the nephew of the complainant Suleman informed him that brother of the complainant namely Hamza had been got injured by stone, but said Sulleman had not disclosed any name to the complainant and the FIR was only registered against the applicant after consultation, hence the same casts doubt about its truthfulness. Even crime

weapon i.e. stone has not been recovered from the place of incident by the I.O. It appears that postmortem of the deceased has not been conducted as the complainant brought the dead body from the hospital without postmortem by making a statement that he did not want to register a police case as it was an incident without any planning, therefore, due to not conducting the postmortem, the cause of death of the deceased could not be ascertained; that according to entry No.16 an unknown lady informed the police that a person namely Hamza son of Dawood Shams had died due to fall from the roof of the school, but surprisingly that lady was not arrayed as witness in the instant case, hence, in these circumstances, applicant has successfully made out a case of further probe into his guilt.

- 4. For what has been discussed above, the applicant is granted bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) and P.R bond in the like amount to the satisfaction of trial Court.
- 5. These are the reasons for the short order announced on 01.08.2023.

**JUDGE** 

Sajid