

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

Criminal Bail Application No. 1647 of 2023

---

Date	Order with signature of Judge
------	-------------------------------

---

For hearing of bail application

**21.8.2023**

Mr. Ghulam Akbar Dharejo, advocate for the applicant.  
Mr. Tahir Akram advocate for complainant  
Mr. Muntazir S. Mehdi , APG a/w I.O/SI Arif Shah of P.S NKIA.

-----

Through this bail application under Section 497, 498-A Cr.P.C., the applicant has sought admission to post-arrest bail in F.I.R No. 120/2023, registered under Section 302 PPC at P.S New Karachi Industrial Area (NKIA), Karachi. The earlier bail plea of the applicant has been declined by the learned Additional Sessions Judge VII MCTC-02 (Central) Karachi vide order dated 17.05.2023 in Cr. Bail Application No. 790/2023.

2. It is alleged that according to the prosecution story narrated in FIR No. 120/2023 registered at P.S. NKIA under section 302 PPC, on 15.03.2023 On 14.03.2023 at 02 a.m night, the complainant's brother-in-law called him and informed him that his wife was quarreling with due to which he was given divorce to her upon; that he pronounced divorce to her and the area people called to the mother of the victim that Said is being taken to hospital in ambulance because her health is not good and later on it come to the knowledge that she has expired; that sister in law has been murdered by Muhammad Naqqash by strangulated her neck and maltreatment.

3. The applicant being aggrieved by and dissatisfied with the aforesaid bail declining order has approached this Court inter-alia on the ground that the applicant has been falsely implicated in the case. Learned counsel for the applicant submitted that the applicant had contracted a love marriage which was against the wishes of the family of the deceased due to which the family of the deceased used to neglect/disown the deceased since 2011 due to which the deceased was not happy with the attitude of her family members and she used to remain frustrated at the house of the applicant/accused. He has further submitted that no statement has been recorded of any person of mohalla who provided the information to the mother of the deceased even though the mother of the deceased did not

record her statement and the complainant did not disclose how it came to his knowledge that the deceased has been murdered with torture or beating. He has further submitted that the involvement of the applicant in the commission of the alleged offense is yet to be determined and the conclusion of the trial does take a long time whereas he is behind the bar since his arrest and delay in trial in is attributed to the applicant. In support of his contention, he relied upon the cases of *Aamir Faraz vs. The State* **2023 SCMR 308**, *Ishtiaq Ahmed Mirza vs. Federation of Pakistan* **PLD 2019 SC 675**, *Ehsanullah vs. The State* **2012 SCMR 1137**, *Abid Ali Vs. the State* **2011 SCMR 161**, *Manzoor vs. The State* **PLD 1972 SC 81**, *Ahmed Jan vs. the State* **2014 MLD 410**, *Muhammad Dildar vs. The State* **2018 YLR Note 83** and *Mst. Sarwary vs. The State* **2018 YLR 728**. He lastly prayed for allowing the bail application.

4. Learned APG assisted by the learned counsel for the complainant has submitted that the tentative assessment of material available on record, prima facie leads to a conclusion that there are no reasonable grounds exist to believe that it is a case of further inquiry. Learned counsel for the complainant submitted that the applicant had illegitimate relations with one woman Afsheen, due to which the relation between spouses remained stranged and often applicant used to maltreat the deceased wife. Per learned counsel for the complainant the minor son of the applicant namely Hassan aged about 4/5 years disclosed the involvement of the applicant in the aforesaid crime. Learned counsel relied upon the video recording/statement of a minor boy in which he disclosed that the applicant committed the murder of deceased Saira which is also case property; that all the PWs have supported the version of the complainant; that as per the Post-mortem report of deceased Saira dated 14.03.2023 injury marks of torture were found on the body of deceased; that the crime property i.e. dupatta of deceased with which the neck of the deceased was strangulated by the accused. He prayed for the dismissal of the bail application. At this stage learned counsel for the applicant has refuted the stance of the prosecution with the assertion that the complainant alleged that his daughter was maltreated and tortured was/ is wrong as no torture marks were found on the body of the deceased, therefore the allegations of murder of his wife prima facie appears to be based on suspicion, which requires further inquiry. Learned counsel also submitted that there is no evidence against the applicant so far as audio-video recording is concerned which is a weak type of evidence.

5. I have heard learned counsel for the parties and perused the material available on record.

6. Tentative assessment of the case in hand so observed by the learned trial Court in the order dated 17.05.2023 reflects the following aspects of the case:-

- a. *The applicant accused is nominated in the FIR with the specific role assigned to him regarding committing the murder of deceased Saira d/o Akhtar Ali aged about 26 years sister in law (Saali) of the complainant by giving beating severely and strangulating her neck with a scarf/dupatta of deceased.*
- b. *Allegedly, the applicant had illegal relations with one woman Afsheen, due to which the relation between spouses was not good and often accused used to beat and commit torture on deceased over the above dispute of woman.*
- c. *the minor son Hassan aged about 4/5 years of the accused/deceased disclosed the incident to PWs/neighbors M. Anees s/o M. Ishaq, M. Abid s/o M. Shafiq, Syed Imran s/o Syed Munawar Ali, and Tariq s/o Tahir as well as complainant which was recorded by Muhallah people in the shape of USB.*
- d. *The video recording/statement of the above minor son of parties made by Mohallah people, the minor disclosed that applicant accused murdered deceased Saira, which is the case property in the shape of a USB.*
- e. *All PWs/ neighbors/Muhallahdar stated in their statements under Section 161 Cr. P.C. that on the night of the incident sounds of beating/torture and cries of the deceased were coming from the house of the deceased.*
- f. *Father of deceased Akhtar Ali s/o Raham hin also supported the version of prosecution/complainant in his statement under Section 161 Cr.P.C.*
- g. *Prima facie, as per the Post-mortem report of deceased Saira dated 14.03.2023 injuries marks of torture were found on the body of deceased Saira who was strangulated which supported the version of the prosecution/complainant as medical evidence.*
- h. *In the interrogation report the accused disclosed the whole story and confessed his offense of murdering the deceased by strangulating her neck with her dupatta.*
- i. *All 04 minor children of the deceased are in the custody of the mother of the applicant accused.*
- j. *The case property/ crime weapon i.e. dupatta of deceased with which the neck of the deceased was strangulated by the applicant accused was recovered from the place of the incident with the dead body.”*

7. Prima-facie the applicant is nominated in the F.I.R. with the specific role of causing the death of the deceased and as per the post-mortem report, the cause of death of the deceased was Asplaixia. The version of the complainant has been fully supported by the PWs in their

161 Cr. P.C. statements; medical evidence supports the prosecution case; no malafide has been pointed out by the applicant on the part of the complainant or the investigation officer for false implication. The motive is directly alleged against the applicant. The offense for which the applicant is allegedly involved is punishable by death or imprisonment for life and hence falls within the prohibitory clause of section 497 Cr.P.C. It is a well-settled principle of law that the court has to make a tentative assessment while deciding the bail application and a deeper appreciation of evidence is not permissible at the bail stage. The case law cited at the bar is of no help to the applicant because of the material collected by the prosecution however, the grounds taken by the applicant could be taken care of by the trial Court as and when the trial begins and if during evidence any material comes on record favorable to accused he may repeat the bail on the fresh ground which will be decided on its merit. The trial Court shall take pains to examine material witnesses within two months positively.

8. In these circumstances; I am of the tentative view that there is sufficient material available with the prosecution which connects the applicant with the alleged offense and the applicant has failed to make out his case for post-arrest bail. Accordingly, the bail application is dismissed

9. The observations made hereinabove are tentative only to decide the instant bail application, which shall not, in any manner, influence the learned Trial Court at the time of the final decision of the subject case.

JUDGE

Shahzad/\*