

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

Criminal Bail Application No.1848 of 2021

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

For hearing of bail application

20.9.2023

Sheikh Jawaid Mir advocate for the applicant alongwith applicant Sana Saeed

Mr. Muntazir Mehdi, Additional PG

Mr. Mallag Assa Dashti advocate for the complainant

The applicant seeks indulgence of this Court against the order dated 30.9.2021 passed by Additional Sessions Judge-VI Karachi South whereby the trial Court while dismissing the bail application of the applicant Mst. Sana Saeed has denied her pre-arrest bail in FIR No.329/2021 registered for the offence under Section 302 PPC of PS Gizri Karachi.

2. Briefly the charge against the applicant is that she killed her husband/father of the complainant. Such a report of the incident was given to P.S. Gizri Karachi, who lodged FIR No.329/2021 for the offense under Section 302 PPC.

3. At the very outset, both the learned counsel for the parties agreed to the disposal of this bail application in the terms that the trial is already in progress and depositions of PWs-4, 5, 6, 7, 8, 9, and 10 have already been recorded and the trial is at the verge of conclusion. In such a situation, learned counsel for the applicant prays for confirmation of the interim bail granted to the applicant vide order dated 01.10.2021. In support of his contention, he relied upon the statement dated 20.9.2023 along with copies of the depositions of seven PWs.

4. Without prejudice to the right of the parties at trial, learned APG has endorsed the point of view of the learned counsel for the applicant and complainant.

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

6. The progress in the trial reveals that evidence of the seven PWs has been recorded and remaining witnesses are yet to be examined. It is a well-settled law that the courts should not grant or cancel bail when the trial is in progress and the proper course for the courts in such a situation would be to direct the trial Court to conclude the trial of the

case within the specified period. On the aforesaid proposition, I seek guidance from the decision of the Supreme Court in the cases of Rehmatullah v The State **2011 SCMR 1332** and Haji Mian Abdul Rafiq v Riazuddin **2008 SCMR 1206**

7. From the above dicta laid down by the Supreme Court, this Court ordinarily does not interfere with the progression of the trial to avoid discussion and remarks on the merits of the case as held in the case of Ehsan Akbar v. The State and 2 others (**2007 SCMR 482**). It has been long settled by the Supreme Court that when the trial is likely to commence or begin, bail application should not be decided on merits, and the matter be left to the trial Court because it may prejudice the case of either party. On the aforesaid proposition, I am guided by the decisions of the Supreme Court in the cases of Muhammad Sadik & others vs The State **1980 SCMR 203**, Muhammad Ismail vs Muhammad Rafiq **PLD 1989 SC 585**, Mian Dad vs The State **1992 SCMR 1418**, Gohar Rehman vs Muhammad Tahir **2011 SCMR 815**.

8. In view of what has been discussed above, and keeping in view the dicta laid down by the Supreme Court in the aforesaid cases, this Court is of the tentative view that the applicant has been attending the trial Court and the matter is at the verge of conclusion, therefore, the interim bail granted to the applicant vide order dated 01.10.2021 is hereby confirmed on the same terms and conditions.

9. It is made clear that nothing stated or observed while deciding the instant bail application shall be tantamount to expression on the merits of the case. However, the learned trial Court is directed to conclude the trial of the case within one month by examining the remaining witnesses after receipt of this order.

JUDGE

>>

