

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 132 of 2023

Date of hearing

Order with signature of Judge

For hearing of bail application

1. For order on office objection at Flag-A
2. For orders on MA No.1349/2023 (Ex./A)
3. For hearing of bail application

06.10.2023

Mr. Aftab Hussain Shar, Advocate for applicant along with applicant, who has filed a statement with certain documents.

Mr. Sundar Khan Chachar, Advocate for complainant along with complainant.

Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – In FIR, it is alleged that applicant, wife of deceased Muhammad Ali, on account of her illicit relationship with accused Raja Khan, was annoyed with the deceased and so also his relatives. On 16.11.2022, complainant was informed by his brother-in-law, namely Gulzar Ahmed, on phone that his brother Muhammad Ali, husband of applicant, was murdered by applicant, her paramour and two unknown accused, which, he, Ali Iftikhar and Arbelo had seen at about 05:00 a.m. when they had woken up for offering morning prayer. Per PW Gulzar Ahmed, applicant was holding legs of the deceased, and two unknown accused armed with pistols were standing over the deceased, whereas Raja Khan riding on chest of the deceased had caused him an iron blow on his forehead, but seeing the witnesses, they fled away. However, they found Muhammad Ali as dead.

2. Police papers show that on the same day viz. 16.11.2022 at 11:45 a.m., on information given by the complainant, an entry was kept at Police Station. Subsequently, PW Gulzar Ahmed had filed an application U/S 22-A & B, CrPC on 02.12.2022 for registration

of FIR, in which police report was submitted. In both the entry and police report the fact of only receiving information of the incident by complainant Jameel Ahmed without naming any accused is mentioned. Although as per FIR, in the morning, he was informed about the incident in detail and the names of culprits, the role assigned to them was revealed to him. But he chose not to give such details to the police and waited for one month to register the FIR with such detail. Meanwhile, the postmortem of the deceased was conducted and the opinion of Medico Legal Officer is that the cause of death of deceased is not determinable.

3. Citing these ground, learned Counsel for applicant has pleaded for bail placing reliance upon case of Fahad Hussain and another v. State through Prosecutor General Sindh (**2023 SCMR 364**).

4. Learned Counsel for the complainant has opposed the bail relying upon cases of Mst. Barkat Bibi v. Gulzar and another (**1979 SCMR 65**), Munawar v. The State (**1981 SCMR 1092**), Ijaz Masih alias Damo v. The State (**1999 P Cr. L J 343**), Shoukat v. The State (**2010 MLD 1137**), Ghulam Nabi and others v. The State (**2016 P Cr. L J Note 46**), Muhammad Yahya v. The State (**2016 P Cr. L J Note 66**), Sabir Hussain and another v. The State (**2016 P Cr. L J 1120**) and Abdul Bari v. The State (**2018 YLR 376**). The bail application is also opposed by learned Deputy Prosecutor General.

5. Notwithstanding, the case against the applicant appears to be one of further enquiry. The role assigned to her that she was holding legs of the deceased, in presence of two male persons armed with pistols requires further enquiry. More so, the story revealed in FIR, *prima facie*, does not align with the daily diary kept on the day of incident and the police report based on

information from the complainant. The delay of one month in registration of FIR, *prima facie*, is not properly explained. In this circumstances, due deliberation and false implication of the applicant cannot be ruled out. The case laws, relied upon by learned Counsel for complainant, are distinguishable and not applicable in this case.

6. Accordingly, this application is **allowed** and ad-interim pre-arrest bail already granted to applicant, vide order dated 01.03.2023, is hereby **confirmed** on same terms and conditions.

7. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

The bail application stands **disposed of** in the above terms.

Abdul Basit

J U D G E