

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

Criminal Bail Application No.1050 of 2024

Date	Order with signature of Judge
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For hearing of bail application

Date of hearing and order:-10.7.2024

Mr. Muneer Ahmed Gilal advocate for the applicant
Ms. Rubina Qadir, DPG along with Inspector/ Investigating Officer
Zulfiqar of PS Darakhshan Karachi

ORDER

Adnan-ul-Karim Memon, J:- The applicant seeks indulgence of this Court against the order dated 22.04.2024 passed by Additional Sessions Judge-Xth Karachi South in FIR No. 136 of 2023 under Section 302/201 PPC of PS Darakhshan Karachi, whereby he has declined post-arrest bail to the applicant on the premise that applicant was deceased's husband and he brutally murdered her that carries capital punishment and there is sufficient evidence connecting him with the subject crime of murder of her wife Mst. Syed Itrat Hassan.

2. Briefly the charge against the applicant is that between 14.03.2023 to 15.03.2023 at midnight, inside flat No. 302, third floor, plot No. 33-C Lane No.10, Khadda Market DHA Phase VI, Karachi the applicant/accused in furtherance of his common intention allegedly committed Qatle-Amd of his wife namely Mst. Itrat Hassan, severely injured her and during treatment, she lost her life, such report of the incident was lodged by Sub Inspector Meer Hassan at police station Darakhshah on 16.02.2023.

3. Learned counsel for the applicant has contended that the applicant/accused is innocent and he has not committed the alleged offense and has falsely been implicated in this case by the Darakhshan Police with malafide intention and ulterior motives as there is no one from the family of the deceased has come forward to lodge FIR. However, the police intervened and lodged the FIR. He next contended that the applicant's wife (deceased) was attacked by unknown persons as she was alone at home and she got severe injuries as per CDR submitted by police, which supports the version of the applicant as the deceased filed Family Suit No. 798 of 2022 for dissolution of marriage by way of khula against her previous husband Hassan Abbas with the narration that her husband was short temper and psycho patient and used to maltreat her and due to that reason learned Family Court granted khula vide judgment dated

05.07.2022, therefore, the possibility of causing injuries to the deceased by her previous husband cannot be ruled out as she deposed before the trial Court such ordeal. Learned counsel also relied upon the CDR of the applicant that on the very day, he was not present at the place of the incident as portrayed by the police, which factum requires further inquiry. He next contended that the general allegations have been leveled against the applicant/accused. He lastly submitted that the prosecution story is false and fabricated based on assumptions; that the applicant is not involved in the FIR, and his name has been falsely dragged into the FIR. He lastly prayed for allowing the Criminal bail application.

4. Ms. Rubina Qadir, DPG assisted by Inspector/ I.O Zulfiqar of PS Darakhshan Karachi has contended that the applicant/accused committed murder by beating the victim cruelly, leading to her death. She next contended that there is enough evidence on record linking the accused to the crime. She further contended that the offense committed is punishable by death, finally, she prayed for dismissal of the Criminal bail application.

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

6. A tentative assessment of the record reveals that the deceased was done to death inside flat 302, IIIrd Floor, Khadda Market, DHA, Karachi, and the allegations have been leveled against the applicant that he caused severe injuries to the deceased, who succumbed to the injuries and died, later on, her dead body was brought to the Hospital. It is also alleged that the applicant received multiple injuries, on his body, such a medical certificate was issued by the Medico-Legal Officer on 15.03.2023. Medico-Legal Certificate of Mst. Itrat Hassan was also issued on the same day with multiple injuries on different parts of her body and she was brought dead. The postmortem report of the deceased, explicitly shows that more than 10 injuries were caused to the deceased. MLO vide opinion dated 05.06.2023 opined that the cause of death occurred due to failure of vital centers of the brain leading to cardio-respiratory failure caused by multiple impacts on the skull with hard and blunt objects. Forensic DNA and serology analysis report, explicitly shows that various items were taken for the aforesaid purposes and the same was reported on 27.04.2023. Industrial Analytical Centre reported that Ice was detected in articles 1,2,4 and 5. CDR report also supported the case of the prosecution, and PWs have also supported the case of the prosecution.

7. The aforesaid factum requires deep analysis, which can only be possible if the complainant and the Medico-legal Officer are examined by

the trial Court in terms of the charge framed by the trial Court on 21.10.2023.

8. 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.

9. In view of the above facts and circumstances of the case, this Bail Application is dismissed with the direction to record statements of the material witnesses within two months positively, and the applicant shall be free to move a fresh bail application before the trial Court after examination of the two witnesses as discussed supra if he brings his case within the ambit of Section 497(2) Cr.P.C.

10. The observation recorded hereinabove is tentative and shall not prejudice either party at the trial.

JUDGE