

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No. 877 of 2025

Applicant : Mst. Zareena Bibi W/o Muhammad Qasim  
Through Ms. Aminah Khan Solangi, Advocate

Respondent : The State  
through Ms. Rahat Ahsan, Addl. PG Sindh

Date of hearing : 12.05.2025

Date of order : 19.05.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Mst. Zareena seeks post-arrest bail in a case bearing crime No. 798/2023 registered at Police Station Gulistan-e-Jouhar, Karachi for offence under Section 302 PPC. Her earlier bail plea was declined by the Court of learned IVth Additional Sessions Judge, East, Karachi, vide order dated 27.03.2025.

2. The case was registered on 14.09.2023 by the complainant Muhammad Hashim regarding death of his brother Muhammad Qasim. It was alleged that his brother was taken to Jinnah Hospital in an unconscious state and later expired during treatment. Initially, the complainant was informed by the applicant (sister-in-law of the complainant) that the deceased had consumed a soft drink with friends after which his health deteriorated. However, after burial and upon receiving further information, the complainant suspected that the deceased had been poisoned by unknown persons.

3. Learned counsel contended, inter alia, that: the FIR does not name the applicant nor assigns her specific role in the alleged occurrence; there is a significant and unexplained delay of 14 days in registration of the case, which raises suspicion about the authenticity of the narrative; the deceased, Muhammad Qasim, was reportedly suffering from mental stress due to personal and financial issues, including a failed romantic relationship and monetary disputes, which allegedly led him to commit suicide; there is no recovery from the possession of the applicant nor any medical or forensic

evidence to establish her involvement in the death; the prosecution's case is based on hearsay and lacks direct or circumstantial evidence to connect the applicant with commission of the alleged offence; the applicant is a woman, with no prior criminal history, and undertakes to cooperate with the investigation.

4. Conversely, the learned APG has opposed the grant of bail and argued that the deceased was living with the present applicant at the time of his death, and under Article 122 of the Qanun-e-Shahadat Order, 1984, the burden shifts upon her to explain the circumstances in which the death occurred within her custody or knowledge; The initial version provided by the applicant at Al-Mustafa Hospital was misleading and clearly intended to conceal the real facts of the incident, thereby screening off the actual offence; it was only after subsequent disclosures and further inquiry that the narrative unfolded, leading to suspicion of foul play, pointing towards the applicant; the absence of an elaborate mention of the applicant's name in the FIR does not preclude her involvement, particularly when she alone was present at the time of the incident; the delay in lodging the FIR is not fatal under the peculiar facts of this case, where the true circumstances were allegedly suppressed by the applicant herself to divert the investigation. He lastly prayed for dismissal of bail application.

5. After hearing the learned counsel for the applicant and the learned APG, and perusal of the available record, including the FIR, postmortem report, and preliminary investigation papers, it is emerged that the name of the applicant is not mentioned in the FIR, and the complainant initially lodged the case against unknown individuals. However, this non-mentioning of the applicant's name is not conclusive proof of her innocence, especially when considered in the context that she was residing with the deceased at the relevant time, and was admittedly the only person with him when his health deteriorated.

6. The initial version furnished by the applicant, wherein she stated that the deceased had consumed a cold drink outside with friends, was later found to be misleading, and the subsequent story implicating unidentified persons appears to have originated from her alone. This suggests a deliberate attempt to deflect the investigation, which only raises suspicion regarding her role. Furthermore, as per Article 122 of the Qanun-e-

Shahadat Order, 1984, the onus lies upon the applicant, being the only person in whose presence or custody the incident occurred, to provide a reasonable explanation for the death. The lack of any cogent explanation coupled with the false initial statement points to a possible effort to conceal the offence. The narrative of suicide, introduced at a belated stage, is yet to be substantiated and appears to be a mere defence plea at this stage, unsupported by medical or circumstantial evidence.

7. The delay in registration of FIR, in the peculiar facts, is explained by the initial concealment by the present applicant and the false narrative provided to the complainant. In such a situation, the delay per se cannot be treated as fatal, particularly when the cause of death was unknown at the time and subsequently emerged through disclosures. This case revolves around the unravelling of a mystery surrounding the cause of death, with the applicant being centrally placed in the factual matrix.

8. The medical board has opined that the cause of death was cardio-respiratory arrest due to lidocaine and paraphenylenediamine (PPD) poisoning or overdose. While the report conclusively determines the physiological cause of death, it does not shed light on the manner of death, whether it was suicidal, homicidal, or accidental. It is well-settled that the opinion of the medical experts, though relevant, is not conclusive as to the circumstances in which the toxic substance was ingested. The determination of such circumstances requires a comprehensive assessment of the surrounding facts, including the deceased's mental state, his relations, motive, last seen evidence, and other material collected during investigation. In the present case, the deceased was admittedly residing with the applicant at the relevant time, and she initially concealed material facts regarding the alleged poisoning, attributing the death to an innocuous intake of cold drink. This conduct prima facie suggests an attempt to screen the offence and raises serious questions requiring trial. At this stage, the available material, including the cause of death due to ingestion of specific toxic substances, coupled with the applicant's shifting narrative, provides reasonable grounds to believe that the offence falls within the ambit of Section 302 PPC, disentitling the applicant to the concession of bail.

9. At this tentative stage, the accumulative circumstances create a prima facie case against the applicant, meriting further investigation and

judicial scrutiny at trial. Given the above considerations, no case for bail is made out at this stage. Accordingly, the instant bail application is dismissed. Learned trial court is directed to conclude the trial within 90 days.

10. The observations made herein are tentative in nature and shall not prejudice the trial court in deciding the matter on merits.

**J U D G E**