

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-467 of 2025
[Gul Muhammad versus The State]

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| Applicant | Gul Muhammad: through M/s. Pir Bux Bhurgri and Saeed Ahmd Janwri advocates |
| Respondent: | The State through Ms. Sana Memon Assistant P.G |
| Date of hearing | 01.09.2025 |
| Date of Order | 01.09.2025 |

ORDER

TASNEEM SULTANA, J: Through this bail application, the applicant Gul Muhammad seeks pre-arrest bail in Crime No.08 of 2025 registered at Police Station Abadgar, District Tando Muhammad Khan under sections 302, 337-J, 201 and 34, PPC. His earlier application bearing Criminal Bail Application No.204 of 2025 was dismissed by the learned Additional Sessions Judge-I, Tando Muhammad Khan vide order dated 30.04.2025.

2. The FIR was lodged on behalf of the State by SIP Mumtaz Hussain Khoso, then posted as SHO at Police Station Abadgar, stating that on 07.02.2025, in village Shafi Muhammad Magsi, one girl namely Khadija daughter of Gul Muhammad Magsi aged about 18/19 years, had been murdered by her father Gul Muhammad Magsi along with Khan Muhammad Magsi, Abdul Majeed Magsi and Raman on account of a domestic dispute by torturing her and administering poison and thereafter the accused buried the dead body in Faqeer Muhammad Shah graveyard in order to conceal the offence.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated with mala fide intentions, as relatives of the deceased had earlier filed Constitutional Petition No.D-1326 of 2024 against the police; that it does not appeal to reason that a real father would murder his own daughter without any proven motive; that the FIR was lodged after a delay of about fifteen days without satisfactory explanation; that there is no eyewitness of the incident and the applicant has been assigned only a general role; that the allegations are

not corroborated by medical evidence; that during investigation one co-accused having a similar role was let off by the Investigating Officer under Section 169, Cr.P.C.

4. Conversely, learned Assistant Prosecutor General opposed the grant of bail.

5. At the bail stage, the Court is not to conduct a detailed or meticulous evaluation of evidence but to make a tentative assessment as to whether the material available raises reasonable grounds for believing that the accused is connected with the commission of the alleged offence or whether the case calls for further inquiry within the meaning of section 497(2), Cr.P.C.

6. When examined on this touchstone, the record reveals that although all the nominated accused were assigned a general and similar role, yet co-accused Khan Muhammad Magsi was found innocent during investigation and was released by the Investigating Officer under section 169, Cr.P.C. The Honourable Supreme Court in *Muhammad Azam vs. The State* (2008 SCMR 249) held that where co-accused having identical role have been declared innocent during investigation, the case of remaining accused becomes one of further inquiry entitling them to bail. This principle squarely applies here.

7. Further, the applicant is alleged to have participated in the murder of his own daughter through torture and administration of poison, yet the Special Medical Board constituted in this case categorically opined that the cause of death of Khadija could not be ascertained due to advanced decomposition of the body after exhumation. It is also significant that the alleged incident was un-seen; no private witness from the same locality was associated in investigation, and the two private witnesses cited belong to another village, thereby raising questions about their natural presence at the relevant time and place. Such circumstances, at the very least, create doubt sufficient to hold that the case calls for further inquiry. The delay of fifteen days in lodging of FIR, unexplained by the complainant, also reduces the evidentiary weight of the allegations and makes deliberation and consultation a plausible inference, as recognized in *Raja Muhammad Arshad v.*

Muhammad Rafique (PLD 2009 SC 427).

8. In light of these circumstances, general role attributed, medical evidence being inconclusive, co-accused of identical role let off during investigation, absence of natural witnesses, and unexplained delay in FIR, the case of the applicant comes within the ambit of further inquiry as envisaged under section 497(2), Cr.P.C.

9. For these reasons, vide short order dated 01.09.2025, this bail application was allowed and the interim pre-arrest bail earlier granted to the applicant was confirmed on the same terms and conditions.

10. It is, however, clarified that the observations made herein are tentative in nature and shall not prejudice the trial Court in deciding the case on merits.

JUDGE

Sajjad Ali Jessar