

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.892 of 2025

Applicant : Ziaullah, through Ms. Jenipher Stephen,
Advocate.

Complainant : Dilshad Ahmed, through Mr. Tariq Hussain,
Advocate

Respondent : The State, through Mr. Muhammad
Noonari, D.P.G.

Date of Hearing : 03.11.2025

Date of Order : 17.11.2025

ORDER

TASNEEM SULTANA, J: Through this Criminal Bail Application, the applicant seeks post-arrest bail in Crime No. 332 of 2024 registered at Police Station Saddar, Karachi, under Sections 302, 201, 203 and 34, P.P.C.

2. Brief facts of the prosecution case are that complainant Dilshad Ahmed reported that his mother, Mst. Sabra Parveen, employed at Gulistan-e-Jauhar, left her house on 01-10-2024 for work but did not return. Her mobile phone was found switched off, and on the following morning, i.e. 02-10-2024, the complainant received information that her dead body was lying near Najamuddin Hall Park within the premises of Jinnah Hospital. Upon reaching there, he identified the deceased and alleged that she had been murdered by one Akhter along with his companions, who, after committing the offence, abandoned the body near the hospital and escaped. On such report, the FIR was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated; that he was not named in the FIR and his name surfaced subsequently during investigation on the statement of co-accused Akhter recorded in police custody; that in his judicial confession under Section 164, Cr.P.C., the said co-accused categorically exonerated the applicant by asserting that he was not present at the time of occurrence; that the applicant, a Bykea rider by profession, was merely called for transport assistance, believing that he was helping an injured woman; that there is no

independent evidence showing his presence at the scene of occurrence or his participation in any overt act; that the DNA and forensic reports do not contain any incriminating material against him; and that even if the allegations are taken at their face value, the same, at the most, attract Sections 201 and 203 read with Section 34, P.P.C., which fall outside the prohibitory clause. It was further submitted that investigation has been completed, challan submitted, and continued detention of the applicant would amount to pre-trial punishment.

4. Conversely, learned Assistant Prosecutor General, assisted by learned counsel for the complainant, opposed the plea and contended that the applicant accompanied the principal accused in removing the dead body and that his motorcycle was used for that purpose, which prima facie attracts Sections 201 and 203 read with Section 34, P.P.C.

5. Heard. Record perused.

6. At the stage of considering bail, the Court is required to make a tentative assessment of the material placed before it. The limited purpose is to examine whether reasonable grounds exist for believing that the accused is guilty of the alleged offence or whether the case, on its face, attracts the principle of further inquiry within the meaning of Section 497(2), Cr.P.C.

7. A plain reading of the FIR reflects that the allegation of murder has been levelled specifically against co-accused Akhter and certain unidentified associates, while no direct role or presence has been ascribed to the present applicant therein. His name surfaced later during investigation on the statement of the said co-accused recorded in police custody, which, under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, is legally inadmissible against a co-accused and cannot be treated as evidence. The same co-accused, when produced before the learned Magistrate for recording of confession under Section 164, Cr.P.C., is stated to have absolved the present applicant. This circumstance, viewed tentatively, introduces doubt regarding the applicant's alleged participation in the offence.

8. The material available so far prima facie does not depict any clear or independent role of the applicant in the alleged occurrence. The allegation against him, as presently mentioned, is that he

facilitated in removal of the dead body after the incident. Whether such act, if proved, was done with guilty intent or without knowledge of the offence, is a matter to be determined by the trial Court after recording of evidence. At this stage, such uncertainty brings the case within the ambit of further inquiry. When the case calls for further inquiry into guilt of accused within the meaning of Section 497(2) Cr.P.C., the accused is entitled to bail as of right. Reliance is placed on the case of *Salman Mushtaq & others v. The State through P.G Punjab and another* (2024 SCMR 14) wherein the Hon'ble Supreme Court has held as under:-

6.While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

9. In view of the tentative assessment of the available material, and without entering into the merits of the case, the matter against the present applicant falls within the scope of further inquiry as envisaged under Section 497(2), Cr.P.C. Accordingly, the applicant Zia Ullah s/o Masli Khan is admitted to post-arrest bail subject to furnishing solvent surety in the sum of **Rs.100,000/- (Rupees One Hundred Thousand only)** and a personal bond in the like amount to the satisfaction of the learned trial Court.

10. The observations made herein are purely tentative, confined to the disposal of this bail application, and shall not prejudice the case of either party; the allegation against the applicant shall be determined by the trial Court after recording of evidence in accordance with law.

JUDGE

Ayaz Gul