

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Appln. No. S-147 of 2024

Applicant	:	Mst. Samina w/o Parvez Suhag, Through Mr. Abdul Rehman A. Bhutto, advocate
Complainant		Parvez s/o Mulazim Hussain Through Mr. Muhammad Afzal Jagirani and Hayat Muhammad Khan, advocates
The State	:	Through Mr. Sardar Ali Solangi, D.P.G for the State
Date of hearing		25-08-2025
Date of order		25-08-2025

ORDER

SHAMSUDDIN ABBASI, J.- Through the instant criminal bail application, the applicant/accused Mst. Samina seeks interim pre-arrest bail in Crime No. 46/2023 of P.S. Civil Lines, Jacobabad, registered under Section 302, P.P.C., after rejection of her bail plea by the learned trial Court vide order dated 04.03.2024.

2. The facts of the FIR are already mentioned in the impugned order, which are reproduced as under:

Complainant Parvez Suhaag lodged FIR on 15.04.2023 at 07:00 a.m. stating therein that his wife/accused Mst. Samina used to work in houses as servant. On 09.04.2023 at about 07:30 a.m., accused Mst. Samina left her house for work, while the complainant also left for labor work. Their two children, namely Ghulam Shabir @ Murred (aged about 12 years) and Muhammad Awais (aged about 10 years), remained at home and were accustomed to playing in the street. In evening, when the complainant returned home, his children were missing. He, along with his brother Sher Muhammad and mother Mst. Mukhtiar, searched for them in the locality but could not trace them. At about 05:15 p.m., the complainant, along with the said witnesses, returned home and while attempting to shift an iron box (Petti) lying in the courtyard, found it heavy. Upon opening it, they discovered the dead bodies of both children inside. The police of P.S. Civil Lines were informed, who arrived, shifted the bodies to Civil Hospital, Jacobabad for postmortem, and after the funeral ceremony, the complainant lodged the FIR.

3. Learned counsel for the applicant submits that the applicant is innocent and has falsely been implicated due to mala fide intention and ulterior motives; that she was not nominated in the FIR but was implicated later-on in the complainant's further statement recorded by the I.O. after an unexplained delay of two months; that there was delay of six days in lodging the FIR without plausible explanation; that both deceased were real sons of the applicant, hence there was no reason for her to kill them; that she herself had filed a direct complaint against her husband alleging that he had killed the minors, but the same was dismissed by the competent Court; and that the case requires further inquiry in terms of Section 497, Cr.P.C. Learned counsel, therefore, prays that bail already granted to the applicant be confirmed.

4. Conversely, learned D.P.G., assisted by learned counsel for the complainant, has opposed the grant of bail on the grounds that the complainant implicated the present applicant in his further statement recorded after two months; that the JIT has collected CDR of the applicant; and that as the offence carries capital punishment, the applicant is not entitled to the extraordinary concession of pre-arrest bail.

5. I have heard learned counsel for the applicant, learned counsel for the complainant, as well as the learned D.P.G., and have perused the record with their assistance.

6. It is an admitted fact that there was a delay of seven days in lodging the FIR. The applicant, who is real mother of the two deceased minors, was implicated through the complainant's further statement recorded after two months of the FIR, without any plausible explanation. The only material collected against the applicant by the JIT is her CDR, which merely shows her contact with certain persons. The postmortem report reveals that both minors died due to asphyxia.

7. In the cases reported as ***Moalana Abdul Aziz v. The State (2009 SCMR 1210)*** and ***Khalid Javed v. The State (2003 SCMR 1419)***, the Hon'ble Supreme Court emphasized that delayed further statements hold no more weight than Section 161 Cr.P.C. statements and, if delayed, ought not to be relied upon without further scrutiny.

8. In the case reported as ***Abdul Khaliq v. The State (1996 SCMR 1553)*** and ***Noor Muhammad v. The State (2020 SCMR 1049)***, the Hon'ble Supreme Court affirmed that delayed statements lose sanctity and may entitle accused to bail when innocence remains plausible.

9. The Hon'ble Supreme Court in the case of ***Naveed Sattar v. The State and others (2024 SCMR 205)*** granted post-arrest bail where the complainant implicated the accused in a further statement recorded after a delay of two days. In the present case, the further statement was recorded after an inordinate delay of two months, which prima facie requires further inquiry under Section 497(2), Cr.P.C.

10. Likewise, in the case of ***Muhammad Ejaz v. The State (2022 SCMR 1271)***, the Hon'ble Supreme Court held that merits of the case can also be considered at the stage of pre-arrest bail.

11. In view of the above, sufficient grounds exist for confirmation of pre-arrest bail. Accordingly, the instant bail application is allowed. Interim pre-arrest bail already granted to the applicant vide order dated 13.03.2024 is hereby confirmed on the same terms and conditions.

12. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

J U D G E

Abdul Salam/P.A