

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Crl. Bail Appln. No.S-20 of 2021.
Crl. Bail Appln. No.S-19 of 2021.

Date	Order with signature of Hon'ble Judge
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M/s Asif Ali Abdul Razak Soomro and Habibullah G. Ghouri,
advocates for the applicant in both matters.

Mr. Aitbar Ali Bullo, Deputy Prosecutor General.

Date of Hearing : 26.04.2021.

Date of decision : 30.04.2021.

ORDER

Omar Sial, J.- Abdul Hameed Khashkeli seeks post arrest bail in crime number 249 of 2020 registered under sections 302, 311, 177, 118, 34, P.P.C. at the Mehar Police Station and in crime number 261 of 2020 registered under sections 23/25, Sindh Arms Act, 2013 at the same police station. His earlier applications seeking bail were dismissed by the learned Additional Sessions Judge-IV, Dadu on 09.01.2021. As both crimes arise from the same transaction, the two captioned bail applications will be disposed of by this common order.

2. A.S.I. Mohammad Paryal on 18-11-2020 lodged F.I.R. No.249 of 2020 under sections 302, 311, 177, 118 and 34, P.P.C. at the Mehar Police Station in District Dadu. He recorded that on 12-11-2020 he was the duty officer at his police station when a man by the name of Noor Nabi came there and informed him that his sister Shazia had sustained a firearm injury and was being shifted to the hospital in Mehar. A.S.I. Paryal went to the hospital and saw the dead body of Shazia there. As no woman medical officer was available at the hospital in Mehar to conduct legal proceedings, Shazia's dead body was shifted to a hospital in an adjoining town. After the postmortem, Shazia's dead body was handed over to her uncle Ali Gul. Instead of lodging an F.I.R., it appears that an inquiry committee was set up

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by the police to inquire into Shazia's death which concluded that Shazia was engaged to her cousin Mir Gul when she was a minor; however, after she became an adult she declined to marry Mir Gul. This upset her brothers Noor Nabi and Abdul Hameed, who sent their mother Zuhra out of the house after which Noor Nabi also left the house. Abdul Hameed then shot Shazia. Hameed was arrested on 19-11-2020 and upon his pointation a pistol, said to be the murder weapon, was located from his house.

3. I have heard the learned counsel for the applicant as well as the learned DPG. The investigating officer of the case was also present. With their able assistance, I have also perused the record. My observations are as follows.

1. The learned DPG has struggled with his arguments solely as a consequence of the investigating officer having no reply to give to my queries and being of absolutely no assistance to the learned DPG. According to the investigating officer, the evidence upon which he arrested Abdul Hameed in this crime was a statement of his mother Zuhra; the postmortem report of the deceased as well as the recovery of an empty from the scene of offence and the recovery of the murder weapon.
2. The statement recorded by Zuhra does not support the prosecution case. To the contrary, she recorded that she was informed by her son Ghaffar and her nephew that Shazia had committed suicide.
3. At the moment the alleged recovery of the empty from the place of incident appears to be improbable as the memo of inspection of the place of incident records that when the place was inspected no blood could be gathered from there as the same had been washed out. In these circumstances, it *prima facie* appears improbable that the accused would be vigilant enough to wash the blood stains but would let the empty be at the same place for the police to come recover.
4. The record shows that the investigation in the case was assigned to S.I. Benazir Jamali on 18-11-2020 by S.S.P. Dadu. Under what provision of law was an "inquiry" conducted from the 12th to the 18th has not been explained to me. Further, the memo of inspection of the

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place of incident and the recovery of the empty was made on 13-11-2020 by A.S.I. Paryal (though to my query he claimed that he had not made it and that it was Benazir Jamali who made it); the clothes of the deceased were also seized on 13-11-2020 and though the memo shows that it was made by A.S.I. Paryal (yet he states that Benazir Jamali made it); postmortem was conducted prior to the lodging of the F.I.R. What is the impact of such an investigation which had begun well before the lodging of the F.I.R. will have to be determined at trial; however, at the moment it cannot be conclusively said that the contents of the F.I.R. were not molded according to what the "inquiry" had held. It will also have to be determined at trial as to why A.S.I. was conducting the investigation when it had not been assigned to him and what would the impact of such an investigation be.

5. The accused was arrested on 19-11-2020. 8 days later he agreed that he will take the police to where he had hid the murder weapon. From the washroom of the same house which the police had earlier on 13-11-2020 inspected he produced the murder weapon. The story upon a tentative assessment appears improbable. Further, the weapon was ostensibly recovered on 26-11-2020 but was not sent for forensic examination till 8-12-2020. Upon a tentative assessment, the circumstances in which the weapon was recovered do require a further inquiry.
6. A young lady has died in this case. It appears that one version was that she had committed suicide. Upon a tentative assessment, the injury on the body of the deceased does not appear to be one which may be caused by suicide however careless investigation, in light of the evidence on record, at this preliminary stage and upon a tentative assessment makes the nexus of the accused with the crime a case of further inquiry.
7. In view of the above, the applicant is admitted to bail upon him furnishing 2 solvent sureties in the amount of Rs.300,000/- each together with the P.R. Bond in the like amount to the satisfaction of the learned trial court.

4. Before parting with this order I would like to record that a number of such cases (where a murder of a girl by her own relatives has taken place)

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are before this Court. In nearly all such cases an extremely weak or non-existent investigation has taken place which inevitably has led to create doubts in the prosecution case. These are difficult cases to investigate and solve, as in most cases the prosecution witnesses themselves absolve the accused of all guilt during trial. Such cases require high level of investigative skills, which the investigating officers to whom such cases are assigned, do not appear to have. This is an area of great concern which needs to be addressed. Let a copy of this order be sent to the Inspector General of Police, Sindh as well as the learned Prosecutor General, Sindh for information, so that they can examine what reform can be brought in the investigation and prosecution of such cases.


JUDGE 30/4/21