

ORDER SHEET  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 231 of 2017

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<b>DATED</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
30.01.2018	

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For hearing

Mr. Omparkash H. Karmani, advocate for applicant  
Mr. Shahid Ahmed Shaikh, D.P.G.

**OMAR SIAL, J.-** Through **Cr. Bail Appl. No. 690 of 2017** Applicants Dildar & Gul Bahar have sought post-arrest bail in Crime No. 30 of 2016 registered under Section 302, 337-J & 34 P.P.C. at Jamal Shah police station district Shaheed Benazirabad.. Earlier their post-arrest bail application was turned down by the learned IVth Additional Sessions Judge, Shaheed Benazirabad on 3.6.2017.

2. Through **Criminal Bail Appl. No. S- 231 of 2017**, Applicants Mir Khan, Mst. Haseena & Hajjan @ Haji have sought pre-arrest bail in in Crime No. 30 of 2016 registered under Section 302, 337-J & 34 P.P.C. at Jamal Shah police station district Shaheed Benazirabad. Earlier their pre-arrest bail application was turned down by the learned IVth Additional Sessions Judge, Shaheed Benazirabad on 15.2.2017.

3. Since both the bail applications arise out of same F.I.Rs hence, I intend to dispose of them by this common order.

4. The F.I.R. in this case has been lodged by Reshman on 6-12-2016 for an incident that occurred on 17-7-2016. She stated in the FIR that her daughter Khushboo was married to Applicant Dildar. Dildar used to beat her daughter. On 17-7-2016 she was informed by her brother named Mushtaq Ahmed that Khushboo had been poisoned by Applicant Dildar, his parents Applicants Mir Khan and Hasina and his brother Hajjan and that she is serious condition and he is taking her to civil hospital Daur. Upon hearing this news the complainant went to civil hospital Daur and was told by Khushboo that she had been poisoned by Dildar, Hajjan, Mir Khan and Hasina and then Khushboo died in front of the complainant and was buried by the complainant party. Applicant Gul Bahar was

included as an accused by the police on their own accord at some subsequent stage.

5. I have heard the learned counsel for the Applicants and the learned DPG and scanned the record. The complainant remained absent despite being at notice. My observations are as follows.

- i. It appears that the body of Khushboo was exhumed on 2-2-2017 for the purposes of post mortem. The requisite samples were taken from the corpse of Khushboo and sent for chemical analysis. The final medical report bearing number PMCHNSBA/679/2017 dated 28-9-2017 concluded that “no poison has been detected”. The medical report further concluded that due to decomposition of the body, the cause of death cannot be ascertained however bone injury and poison has been excluded.
- ii. The F.I.R. is delayed by nearly 5 months. It appears from the prosecution case that some time was consumed in the complainant filing a section 22-A, B Cr.P.C. application before the learned 2<sup>nd</sup> Additional Sessions Judge, Shaheed Benazirabad, however, even that order for registering the F.I.R. was obtained on 19-11-2016. At this stage, the reasons for delay are sketch and vague. Yet, deliberations and consultations in this substantial delay cannot be conclusively ruled out at this stage.
- iii. Applicant Gul Bahar was not nominated in the present F.I.R. Neither, the learned DPG nor his own counsel can explain how and when he was included in the case. Neither does the challan filed by the police reveal any detail. Be that as it may, circumstances of the case are such that ulterior motive and malafide on the part of the complainant and the police cannot be conclusively ruled out at this stage.

Above are the reasons for my short order of 30.01.2018 in terms of which the interim pre-arrest bail granted earlier to applicants Mir Muhammad, Mst. Haseena and Hajjan @ Haji was confirmed on the same terms and conditions whereas applicants Dildar Machi & Gul Bahar were admitted to post arrest bail subject to their furnishing solvent sureties in the amount of Rs. 50,000 each and a P.R. Bond in the like amounts.

JUDGE