

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Cr. Bail Application No.1384 of 2018 and  
Cr. Bail Application No.1388 of 2018**

Date	Order with signature of Judge
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For hearing of Bail Application.

**13.02.2019**

Mr. Javed Ahmed Chattari, advocate for the applicants.  
Mr. Javed Ahmed Rajput, Advocate for the complainant.  
Ms. Rahat Ahsan, Additional P.G.

**NAZAR AKBAR, J.** By this common order I intend to dispose of both the above Criminal Bail Applications, as both the application arising out of same offence/crime. The Applicant Sarfarazuddin and Muhammad Adil after failing to obtain post arrest bail from the Court of V-Additional District & Sessions Judge, Central Karachi in FIR No.159/2018 under Sections 302/337-J/34 PPC registered at P.S Shahra-e-Noor Jahan, Karachi has preferred these bail applications. On **11.10.2018** and **13.10.2018** respectively they were granted interim pre-arrest bail by this Court.

2. Brief facts as stated in the FIR are that complainant Ejazuddin son of Salahuddin after obtaining order from District Judge, Central Karachi, recorded his statement under **Section 154 Cr.P.C** to police wherein he contended that his real sister Romana Salahuddin (the victim) was married with Nabi Ahmed Ansari about 9 years ago and due to matrimonial dispute she was residing with her step brother Muhammad Adil Malik son of Muhammad Rafiq since 21.11.2017. On 22.2.2018 at about 11:30 p.m. complainant received a call from his step brother Sarfaraz (the present applicant), who said that their sister Romana attempted suicide and she hanged herself on ceiling

fan. They had taken her in ambulance to Abbasi Shaheed Hospital and returned without postmortem. Complainant was present in funeral but he did not believe that her sister committed suicide. Later on he got information from neighbors that his step brother Adil, his wife Noor-ul-Ain and her brother Naseem Akhtar gave poison to his sister, therefore, she has died and thereafter they hanged her on fan to give impression of her suicide. Then complainant tried to lodge FIR but failed and, therefore, filed a petition No.326/2018 before Justice of Peace/District Judge, Central Karachi and after obtaining order from said Court he has come to lodge FIR against the culprits.

3. The counsel for applicants has contended that the applicant/accused is innocent and has been falsely implicated in the instant case by the complainant with malafide intention. He further contended that there is no eye witness and/ or any circumstantial witness is available to connect the applicant with the alleged offence. He argued that deceased lady was Choric Psycho patient of Schizophrenia and she committed suicide and the allegation of giving poison to the deceased is false. He lastly prayed for confirmation of bail to the applicant.

4. Mr. Javed Ahmed Rajput, Advocate for the Complainant has vehemently opposed this bail application and contended that the applicant/accused is involved in a very heinous crime of murder. He has pointed out that the Accused has not advanced the plea of previous personal enmity or malafide and ulterior motives on the part of the Complainant to involve them, therefore, he is not entitled for extra ordinary relief of bail.

5. Learned Additional Prosecutor General representing the State has opposed the bail application and contended that the applicant is

involved in a heinous crime of murder, therefore, he is not entitled for concession of bail.

6. I have considered the arguments of learned counsel for the parties and perused the record. From perusal of FIR and challan I have observed that:-

- i. The death of deceased lady took place in the house of the applicants;
- ii. It appears that during investigation on her it transpired that the postmortem of deceased was not conducted, therefore, actual cause of death did not come on record, therefore, a letter was written to concerned Court for exhumation of grave of deceased for which medical board was constituted.
- iii. The applicants avoided postmortem of the deceased and tried to hide the offence and subsequently after examination of dead body it was found that she has been severely tortured before her death;
- iv. The applicant in his statement under Section 161 Cr.P.C stated that he refused to conduct postmortem of deceased and in this regard made statement in writing in the hospital.
- v. The exhumation report also shows eight marks of wounds on the different parts of body of deceased. Besides, sufficient material is available with the prosecution to connect the applicant with commission of the alleged offences.

7. In view of the above, strong circumstantial evidence is against the applicants to connect them in the instant offence. Since there is no allegation of malice or personal grudge against the complainant for lodging a case against the applicants and the offence falls within the prohibitory clause of Section 497 Cr.P.C. The accused are not

entitled to extra ordinary relief of bail before arrest as there appear reasonable grounds for believing that they could be guilty of (an offence punishable with death or imprisonment for life).

8. The cruxes of the above discussion is that keeping in view the above facts and discussion the applicants are not entitled to pre-arrest bail at this stage and, therefore, both the above bail applications are dismissed and interim bail granted on **11.10.2018** and **13.10.2018** respectively is hereby recalled. If the accused have not surrendered themselves before the police voluntarily, once copy of this order is delivered to the trial Court, appropriate action may be taken by trial Court in accordance with law.

9. The observations made hereinabove are tentative in nature and would not influence trial Court while deciding the case of the applicants/accused.

JUDGE

Ayaz Gul