



Faryal and the mohallah people had shifted them to Civil Hospital, Karachi. On receipt of such information, complainant arrived at Civil Hospital and found his son Daniyal expired, whereas his son Faryal being seriously injured was shifted to Operation Theater. Thereafter the complainant lodged FIR.

3. I have heard learned Counsel for the parties at length. Learned counsel for the applicant contended that the applicant was not available at the spot, however, he has falsely been implicated. He further contended that there is delay of about 12 hours in lodging of FIR without plausible explanation. He lastly prayed for confirmation of pre-arrest bail. He has relied upon the following case-laws:-

- i. *Mudassar Altaf and another vs the State (2010 SCMR 1861)*
- ii. *Zaigham Ashraf vs. The State and others (2016 SCMR 18)*
- iii. *Mumtaz Hussain and 5 others vs. the State (1996 SCMR 1125);*
- iv. *Tariq Parvez vs. The State (1995 SCMR 1345);*
- v. *Tasawar Mahmood vs. The State and another (2017 P.Cr.L.J Note 231).*

4. Mr. Muhammad Sagheer Khan, Advocate for the Complainant has vehemently opposed this bail application and contended that the Accused are 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.

5. Learned Additional Prosecutor General representing the State has also opposed the bail application and adopted the arguments advanced by the learned counsel for the complainant.

6. I have gone through the case law, perused the documents filed with the application and from their contentions I have observed that:-

- i. The applicants/accused are nominated in the FIR with specific role of causing stab injuries with Churri/knife to both the sons of the complainant which is also supported by the medical and circumstantial evidence.
- ii. The applicant has failed to point out any enmity against the complainant side for falsely implicating him with alleged incident in which innocent person has done to death and two other including Faryal and Baby Komal are seriously injured.
- iii. The injured have fully supported the prosecution theory being solitary witnesses of the alleged occurrence. Besides, sufficient material is available with the prosecution to connect the applicant with commission of the alleged offences.

7. The offence is punishable for imprisonment for life and therefore, as rightly contended by the counsel for the complainant that in terms of **Section 497 Cr.P.C** the accused shall not be entitled to bail as there appear reasonable grounds for believing that he has been guilty of (an offence punishable with death or imprisonment for life).

8. I have also examined the case law relied upon by the counsel for the applicant. The case laws are not on the question of grant/confirmation of bail before arrest. The facts of this case-laws cited by the learned counsel for the applicant are totally different and distinguishable from the present case. These cases are not relevant to

the facts of the case of the applicant and I have gone through the order of the trial Court. The cruxes of the above discussion is that keeping in view the above facts and discussion the applicant is not entitled to pre-arrest bail at this stage and, therefore, this bail is dismissed and interim bail granted on **09.11.2018** is hereby recalled. Order of dismissal of bail was announced in open Court for the reasons to be recorded later. These are the reasons for the same and if accused has not surrendered himself 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 applicant/accused.

JUDGE

Karachi  
Dated: 31.01.2019