

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. S - 947 of 2020

Date of hearing: 23.07.2020.
Date of order: 23.07.2020.
Applicant: Mushtaq Ahmed through Mr. Tajjamul H. Lodhi, advocate.
Respondent: Complainant Habibullah through Nazakat Ali Mirani, advocate.
The State through Mr. Talib Ali Memon APG.

ORDER

Fahim Ahmed Siddiqui, J: By preferring this application, the applicant is seeking anticipatory bail in a case initiated upon F.I.R. No. 406/2020 at PS Surjani Town under Section 302, 109, 34 PPC. The applicant is one of the nominated accused in the said F.I.R. The learned Additional Sessions Judge-II Karachi West has already declined his bail plea vide Order dated 15-06-2020.

2. I have heard the arguments and perused the records. After hearing the learned counsels representing either side and the learned APG for state and perusal of the records, I have observed as under:

- i) The allegations against the applicant are that he along with other co-accused killed the husband of his paramour in which she was also an accused.
- ii) The motive of the alleged murder was the illicit relationship of the applicant with Mst. Naseem (co-accused) wife of deceased Farooq.
- iii) The delay in reporting the incident is plausibly explained within the body of F.I.R. Accordingly, the delay was due to the reason that the applicant was residing in Layyah, Punjab and he came to Karachi and collected the dead-body from Edhi Mortuary and informed police after seeing marks of violence on the body of the deceased.

- iv) The star prosecution witness is the minor daughter of deceased Farooq and co-accused Mst. Naseem. In her statement under Section 161 CrPC, she has fully implicated the applicant and other co-accused including her mother Mst. Naseem.
- v) The learned counsel for the applicant tries to make it a great point that in the instant case neither an identification parade was held nor a statement of prime witness u/s 164 was recorded, but I am of the view that the same was least necessary in the peculiar circumstances of the case, as the accused were well acquainted to the witnesses while in every case it is not necessary to record the statement of witnesses u/s 164 CrPC.
- vi) The police have collected CDR (call date record), which connects the applicant with the happening of the episode.
- vii) The co-accused confessed their guilt before police and have described the incident, for which there is corroboration in the shape of statement of the daughter of deceased and lady co-accused.

3. The above observations are based on the evidence floating at the surface of the records, from which it is clear that the applicant has an active hand in the entire episode. It is also clear that the motive is directly connecting the applicant with the murder of the deceased.

4. In the existing position of affairs, there subsists no conceivable ground for false involvement of the applicant with some ulterior motive and malice. Consequently, the interim relief extended to the applicant through an order dated 06-07-2020 was recalled through my short Order dated 23-07-2020 and above are the reasons for the same.

5. Before parting, I would like to make it clear that all of the above observations are purely tentative and will have no bearing upon the trial of the case in any manner.

J U D G E