

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

Criminal Bail Application No.S-449 of 2022

| DATE | ORDER WITH SIGNATURE OF JUDGE |
|--------------------------|---|
| | 1. For orders on office objections. 2. For hearing of main case. |
| <u>13.05.2022</u> | |

Mr. Ghulamullah Chang, Advocate for the applicant.
Ms. Sana Memon, Assistant Prosecutor General, Sindh for State.
Mian Taj Muhammad Keerio, Advocate for the complainant.
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Irshad Ali Shah J:- It is alleged that the applicant with rest of the culprit in furtherance of their common intention committed murder of Sundar by administering some poisonous substance to him, for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned Additional Sessions Judge-I, Tharparkar at Mithi has sought for the same from this Court by way of instant application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party in order to satisfy its matrimonial dispute with her; the F.I.R of the incident has been lodged with delay of about 24 days; there is no post-mortem report on the dead body of the deceased and death certificate indicates that the deceased has died on account of Cardio Respiratory Failure, therefore, the applicant is entitled to be released on bail on point of further inquiry. In support of his contentions, he relied upon case of *Mst. Shahida Vs. The State [2010 P Cr. L J 992]*.

4. Learned Assistant Prosecutor General, Sindh for the State and learned counsel for the complainant have opposed to release of the applicant on bail by contending that she has committed murder of her husband to maintain her illicit relationship with her paramour the co-accused Govind alias Raja and she has also made a confessional statement before a Magistrate.

5. Heard arguments and perused the record.

6. The applicant happened to be the wife of the deceased; the deceased before his death has made an oral dying declaration before the complainant and his witnesses by stating that the applicant has given him some poisonous substance by mixing it in milk. On arrest, the applicant has also made a confessional statement before a Magistrate to such effect, which could not be overlooked. In that situation, it would be premature to say that the applicant being innocent has been involved in this case falsely by the complainant party. The delay in lodgment of FIR has been explained plausibly in F.I.R itself, same even otherwise could not be resolved by this Court at this stage. No doubt in death certificate the death of the deceased has been alleged to be on account of Cardio Respiratory Failure and there is no post-mortem report on dead body of the deceased but his fact alone is not enough to disbelieve the complainant or his witnesses and confessional statement of the applicant which prima facie implicates her in commission of incident. The deeper appreciation of facts and circumstances is not permissible at bail stage. There appear reasonable grounds to believe that the applicant is guilty of the offence with which she is charged.

7. The case law which is relied upon by learned counsel for the applicant is on distinguishable facts and circumstances in that case there was no confessional statement of the accused admitting her guilt.

8. In view of above, it could be concluded safely that no case for grant of bail to the applicant is made out, consequently, the instant bail application is dismissed with direction to learned Trial Court to expedite the disposal of instance case preferably within three months after receipt of copy of this order.

9. Needless to say the conversations recorded above are tentative in nature those may not prejudice case of either of party at trial.

JUDGE