

**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No. 831 of 2022**

Applicant : Syed Zeeshan Hussain Shah alias Shani s/o  
Syed Fida Hussain Shah, through  
Mr. Tariq Mahmood, advocate

Respondent : The State, through Mr. Fahim Hussain  
Panhwar, D.P.G.

L. Rs of : Muhammad Akram Anjum, Afshan Akram,  
Complainant Naz Fatima and Ali Raza, through  
Mst. Ramsha Mr. Aziz Lakhani, Advocate

Date of hearing : 16. 05. 2022  
Date of order : 16. 05. 2022

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**ORDER**  
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**ZAFAR AHMED RAJPUT, J:-** Through instant criminal bail application applicant/accused Syed Zeeshan Hussain Shah alias Shani s/o Syed Fida Hussain Shah seeks post-arrest bail in Crime No. 665/2021, registered at P.S. Saeedabad, Karachi under sections 336-A, 336-B, P.P.C. His earlier three applications for the same relief in Sessions Case No. 2081/2021 were heard and dismissed by the Court of learned X-Additional Sessions Judge, Karachi-West vide orders, dated 22.01.2022, 25.03.2022 and 11.04.2022.

2. Precisely, the case of the prosecution is that, on 21.08.2021 at about 1000 hrs., complainant Mst. Ramsha Akram, aged about 21 years, recorded her 154, Cr.P.C statement before ASI Rana Khurram of P.S. Saeedabad, Karachi at Burn Ward, Civil Hospital, Karachi, to the effect that at about 1½ years back, she contracted Court marriage with the applicant, who in the month of February pronounced her verbal *Talaqs*, whereafter she was residing in her parent's house and also doing job in Tahir Plaza near City Court with Chand advocate. It was further alleged by the complainant that the applicant used to chase her on the way and ask her to go with him at his house but she refused to do so. On 21.08.2021, about 0830 hrs., while going on her work, she reached adjacent street of Mehmood Hospital, Sector 9/C, Saeedabad, Baldia Town where the applicant

threw acid on her by pulling her *Burqa* (veil) and burnt her, whereafter her brother brought her at Civil Hospital, Karachi. The statement of the complainant was incorporated in F.I.R. recorded for the offence under sections 336-A, 336-B, P.P.C; subsequently; the complainant died during her treatment; hence, section 302/34, P.P.C. was added in the challan.

3. Learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case; that the P.W-ASI Rana Khurram stated in his evidence recorded before the learned trial Court that on 21-08-2021 at about 10:00 a.m. he reached at Burns Ward of Civil Hospital, where he recorded the statement of the deceased complainant; however, according to death certificate of the deceased, the time of her admission is 10:57 a.m.; hence, her statement recorded under section 154, Cr.P.C. is doubtful; that 10 PWs have been examined by the trial Court, out of whom PW-10 Mst. Fareeda Bano was the only eye witness of the alleged incident; however, she has not identified the applicant; that dying declaration cannot be relied upon without independent corroborative evidence; that the co-accused Meer Balaj, who purchased the acid from a shopkeeper has been admitted to bail; hence the rule of consistency is applicable in applicant's case; that the legal heirs of deceased have filed their Affidavit of No-Objection for the grant of bail to the applicant; hence, he is also entitled for the concession of bail on such score.

4. Learned counsel appearing on behalf of legal heirs of the deceased complainant has maintained that the legal heirs of the deceased have no objection to the grant of bail to applicant and in this regards they have also filed their Affidavits of No-Objection.

5. On the other hand, learned D.P.G. has vehemently opposed grant of bail to applicant on the ground that he has been nominated in the F.I.R. with specific role of throwing acid upon the complainant due to which she was burnt and later

on died; that since the alleged offence carries capital punishment, the same falls within the prohibitory clause of section 497(2), Cr.P.C.; that sufficient material is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled for the concession of bail.

6. Heard learned counsel for the parties and perused the material available on record.

7. Perusal of the record shows that the deceased complainant herself nominated the applicant for the alleged vitriol attack in her 154, Cr.P.C. statement recorded by ASI Rana Khurram soon after the alleged incident in Civil Hospital, Karachi.

8. So far the contentions of learned counsel for the applicant are concerned, it appears that the allegation against the co-accused Meer Balaj was that he purchased the acid for the present applicant. PW Muhammad Abbas, the shopkeeper who sold the acid to said co-accused, failed to identify him in his evidence before the trial Court, therefore, he was admitted to bail. The case of present applicant is on different footings; he is the acid assaulter and, therefore, being aggressor his role is quite different than the role of the said co-accused, which disentitles him to the concession of bail on the principles of role of consistency. So far the filing of Affidavits of No-Objection by the legal heirs of the deceased is concerned, it may be observed that cases of acid attacks are being reported frequently in many parts of our country. The perpetrators of these attacks specially men throw corrosive substance onto the body of the girl/woman in revenge with the intention to disfigure, maim, torture or kill her brutally. Swearing affidavits of no-objection for the grant of bail to accused by the victim and/or legal heirs of the victim in the offences committed brutally are not free from being outcome of threats, hence, the proper course for the parties is to file proper applications under section 345 (2) and (6) Cr. P.C. for acquittal of

the charge after proper verification of legal heirs and genuineness of the compromise by the trial Court.

9. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the commission of alleged offence; therefore, he is not entitled to concession of bail; hence, I dismiss this criminal bail application.

10. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

11. Above are the reasons of my short order dated 16.05.2022.

JUDGE

Athar Zai