

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 1565 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**1<sup>st</sup>. March, 2023**

M/s. Mehmood-ul-Hasan and Mumtaz Chandio, Advocates a/w applicant.

Mr. Hakim Ali Khan, Advocate for complainant.

Mr. Talib Ali Memon, A.P.G.

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**Omar Sial, J:** Abbas Ali has sought pre-arrest bail in crime number 218 of 2022 registered under section 302 P.P.C at the Malir City police station. Earlier, his application seeking bail was dismissed on 06.08.2022 by the learned 3<sup>rd</sup> Additional Sessions Judge, Malir, Karachi.

2. The F.I.R. in the case was registered on 09.05.2022 on the complaint of one Shahida. Shahida reported that her daughter was married to the applicant and that she was visiting her parents for Eid on 04.05.2022. The applicant had also come over with his parents. The couple then went to a room downstairs. Later her husband Ishaque went to call the couple for dinner but found that the door was bolted from the outside. When he opened the door, he saw the daughter hanging from the fan. The mother of the girl was therefore of the view that it was the applicant who killed her.

3. I have heard the learned counsel for the applicant as well as the learned APG who was assisted by the learned counsel for the complainant. My observations and findings are as follows.

4. The record reveals that the family of the deceased did not get a post mortem conducted. The cause of death was therefore not ascertained initially. Subsequently, it was on the application of the applicant that the body was exhumed and medically examined. The medical report concludes that the death was due to asphyxia. Asphyxia could have been caused due to strangling or hanging (as it appears from the report that ligature mark

might also have been present on the neck). Whether the cause of death was hanging or strangulation will have to be determined after evidence is led at trial and thus makes the case against the applicant one of further inquiry. Delving deeper in the medical report will tantamount to a deeper appreciation of evidence.

5. At this preliminary stage, the record reveals that no complaint of past bad behavior of the husband towards the wife was made. The wife, apparently with the husband's blessings had gone to her parent's house. The family of the applicant had also come over for the Eid celebrations. No report of any unpleasant incident occurring between the parties at that meeting was alleged. It appears from the argument made that the complainant's grievance and reason for suspicion on the applicant was that his family did not attend the funeral of the girl. Obviously, there are no eye witnesses or direct evidence. These are all, together with the cause of death, aspects that have to be explored at trial. At this stage however it appears that the case against the applicant is one of further inquiry.

6. While malafide in its classical sense may not be present in the case, I cannot conclusively eliminate at this preliminary stage that a distraught mother may have reached a flawed conclusion due to the shock that must have been received by her as a consequence of the circumstances in which her daughter died.

7. For the reasons above, the interim pre-arrest bail granted to the applicant earlier stands confirmed on the same terms and conditions.

JUDGE