

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Criminal Bail Application No. D-96 of 2022

Applicants : 1. Mansoor Ahmed s/o. Ali Bux and
2. Saleem Ahmed s/o Abdul Ghani,
through Mr. Rukhsar Ahmed M. Junejo,
Advocate

Respondent : The State, through Mr. Shafi
Muhammad Mahar, D.P.G.

Date of hearing : 31.01.2023
Date of order : 31.01.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicants/accused named above seek post-arrest bail in Crime No. 05/2021, registered at P.S. Pir-Jo-Goth, District Khairpur under section 302, 376, 364-A, 201, P.P.C. read with section 7 of the Anti-Terrorism Act, 1997. Their earlier application for the same relief filed in Special Case No. 13/ 2021 was dismissed by the learned Anti-Terrorism Court, Khairpur vide order, dated 22.10.2022.

2. Learned counsel for the applicant has contended that the applicants are innocent and have falsely been implicated in this case by the complainant with mala fide intention and ulterior motives; that the names of the applicants does not transpire in FIR; that there is no eye-witness of the incident; that the applicants have been implicated in this case on the bases of extra-judicial confession of co-accused Abdullah @ Ablee recorded by the police during his detention in the police custody; hence, the case against the applicants is one of further inquiry, entitling them to the concession of post-arrest bail.

3. On the other hand, learned D.P.G. has vehemently opposed this application on the ground that corroborative medical evidence is sufficient to connect the applicants with the commission of alleged offence case and no reasonable ground exists to disbelieve the allegations leveled against them.

4. We have considered the arguments advanced by the learned counsel for the parties and also perused the material available on record.

5. It appears that on 11.01.2021 at 1800 hours, complainant Ghulam Shabbir Larik got the present FIR lodged, alleging therein that her daughter, namely, baby Mona alias Monika, 7/8, was working as labour in the *haveli* of Syed Attan Shah Rashidi and on the day of incident i.e. 09.01.2021, at about 0900 hrs., she went on her work but could not return home. On 11.01.2021, in early morning, he approached to Syed Attan Shah regarding non-return of her daughter, who informed him that for last three days, she did not come on work, then he accompanied with his nephew Muhammad Fahad and step brother Mehrab Vistro started for her searching; during such course, they reached Banana Garden, situated near Hadal Shah, where they saw the dead body of baby Mona lying there; her trouser/*shalwar* was removed and rape was done on her, signs of strangulation of her neck with staller/*dopata* was also available. They also saw there footprints of three persons; hence, it transpired that three unidentified accused, abducted baby Mona and after commission of *zina*, concealed her dead body in the Banana Garden. Thereafter, the complainant informed the police regarding the incident; police reached the spot and sent her dead body to Taluka Hospital Pir-Jo-Goth. After getting the postmortem and performing funeral ceremony of her deceased daughter, the complainant lodged the instant FIR.

6. As per material collected by the prosecution during course of investigation, it appears that the present applicants/accused along with co-accused forcibly abducted deceased Mona and after committing gang rape on her, her murder was committed by strangulating her neck with stroller/*dopata*, which created panic, terror and sense of insecurity in the minds of general people of the society. It further appears that police collected the blood samples of the persons including present accused for DNA tests and reports, which are

available in police file same are found positive, which collaborates the version of the complainant. It further appears that the recovery of shopper was also affected from present applicants/accused. The offence is heinous one, in which one innocent girl aged about 7/8 years was murdered after the commission of *Zina-bil-Jabr*, and the alleged offence is covered by the prohibitory clause of section 497, Cr.P.C.

7. From the tentative assessment of the evidence in hands of prosecution, We are of the view that *prima-facie* sufficient evidence is available against the applicants to connect them with the commission of alleged offence. Every hypothetical question which could be imagined would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence.

8. As a result of above discussion, the instant criminal bail application is dismissed. 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.

9. Above are the reasons of our short order dated 31.01.2023 whereby the instant bail application was dismissed.

JUDGE

JUDGE