

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2032 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

11-05-2023

Mr. Uzair A.K. Ghauri, Advocate for applicant.

M/s. Abdullah Narejo and Abdul Nabi, Advocates for complainant.

Ms. Robina Qadir, Addl.P.G.

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Omar Sial, J: The applicant Shagufta is accused of murdering her husband. F.I.R. No. 651 of 2022 was registered under sections 302 and 34 P.P.C. on 26.06.2022 on the complaint of one Mohammad Tahir. Tahir reported that he and his brother Naveed worked as tailors and that Shagufta, who stitched clothes, also had a shop close by. The three of them started to work as partners and for that purpose also purchased a shop. Soon afterwards, Naveed married Shagufta. As a consequence of the marriage, a lot of unpleasantness was created in the family and Naveed's first wife also took khulla from him. Naveed left the family home and started to reside with Shagufta in another house. Tahir and Naveed ostensibly kept in touch, and Tahir claimed that Naveed had told him that Shagufta keeps all the money he earns. On 19.06.2022 Shagufta informed Tahir over the phone that Naveed was unwell and that she was taking him to the hospital with the help of the watchman of the building they lived in. Naveed died in the hospital and the doctor told Tahir that he has died of strangulation. Tahir nominated Shagufta and her son Hamza for the murder of Naveed.

2. Shagufta applied for pre-arrest bail but her application was dismissed on 18.08.2022 by the learned 10th Additional Sessions Judge, Karachi East.

3. I have heard the learned counsel for the applicant as well as the learned Addl.P.G., who was assisted by the learned counsel for the complainant.

4. It is not clear this stage whether Naveed committed suicide by hanging from a fan (as claimed by Shagufta) or whether he was manually strangled to death by somebody else. The incident has occurred inside the house of the couple. Shagufta's stance is that she had gone out from the house to do some chores and when she had returned she had discovered Naveed hanging from a fan. The complainant's stance is that Shagufta strangled Naveed and pretended that it was a suicide. There is no evidence on record however to date that the relationship between the couple was estranged. The prosecution claims that there is an eye witness by the name of Shaukat Ali. I have gone through his section 161 Cr.P.C. statement and it seems that he was not an eye witness. He was the watchman of the building who Shagufta had called to help her take Naveed to the hospital. His statement further does not disclose as to whether at that time Naveed was already dead or not. Shaukat Ali does not, in any manner, implicate Shagufta. Whether the death was a suicide or a murder, will have to be determined after evidence is led at trial. It is also pertinent to note that the learned ADPP who had scrutinized the challan had recommended that the case should have been disposed of in "C" Class. The medical reports do not show any signs of struggle on Naveed's body. Shagufta herself is a delicate lady and prima facie it seems unbelievable that she could overpower Naveed and strangle him to death. The medical reports, till now, do not show the presence of any intoxicant or drug in the body of Naveed. Apart from the fact that the case against the applicant is one of further inquiry, the further fact that the applicant is a woman and that it was she herself who took Naveed to the hospital, also tilts the balance for grant of bail in her favour. Keeping in mind the unpleasantness created in the family due to Naveed marrying Shagufta, I cannot conclusively rule out malafide of the complainant in registering a false case against Shagufta in order to settle differences and take control of the property owned by Naveed.

5. In view of the above, the interim pre-arrest bail granted to the applicant is confirmed on the same terms and conditions.