

# THE HIGH COURT OF SINDH KARACHI

## Criminal Bail Application No. 153 of 2023

Applicant/ Accused : Muhammad Naseem son of Hayatullah through Mr. Muneer Ahmed Gilal alongwith Farukh Sharif Advocates.

## Criminal Bail Application No. 35 of 2023

Applicant/ Accused : Abdul Wahab Khan son of Nawab Khan through Mr. Paras Ali Lodhi, Advocate.

Complainant : Abdul Khanan son of Sahibzada through Mr. Salahuddin Khan Gandapur, Advocate.

The State : Through Ms. Rahat Ehsan, Additional Prosecutor General, Sindh.

Date of hearing : 29-03-2023

Date of order : 29-03-2023

*FIR No. 900 of 2022  
U/s 365/302/34 PPC  
P.S. Sohrab Goth, Karachi*

## **ORDER**

**Adnan Iqbal Chaudhry J.** - In the aforesaid crime, accused Muhammad Naseem seeks post-arrest bail by Criminal Bail Application No. 153/2023, while the accused Abdul Wahab Khan seeks pre-arrest bail by Criminal Bail Application No. 35/2023 after same applications have been declined by the Additional District & Sessions Judge-III Malir, Karachi by separate orders dated 24.12.2022.

2. The FIR was lodged on 21.08.2022 for the murder of the Complainant's brother, Hameedullah (Deceased), which took place on 18.08.2022. The delay of three days in making the report was adequately explained by the Complainant in stating that he was in

Quetta for work when he learnt of the murder and owing to heavy rain and flooded highway he was delayed in reaching Karachi.

3. Per the FIR, the Deceased was abducted from Machar Colony around 00:15 hours by 4/5 unknown persons who took him away in a Toyota Vigo, which incident was witnessed by Najeebullah and Muhammad and other residents of the vicinity; that around 15:00 hours on the same day, the dead body of the Deceased was found at the Northern Bypass with a bullet injury to the head.

4. The manner in which the crime unraveled is detailed in the challan as follows. The investigation led to the Muhammad Naseem (*Applicant 1*) and one Noor Aga, who were arrested from Machar Colony on 10.10.2022. On interrogation they divulged that the plan to abduct and murder the Deceased was made by Wali Muhammad, who was the brother-in-law of the Deceased, and who had hired Dawood and his men from Quetta for such purpose. Muhammad Naseem (*Applicant 1*) turned out to be Dawood's brother, whereas Noor Aga was Wali Muhammad's brother. They divulged that after abducting the Deceased in a Toyota Vigo, Dawood and his men took him near the link road to the Northern Bypass and shot him in the head and dumped his body further ahead on the Northern Bypass. Per the investigation, Muhammad Naseem (*Applicant 1*) and Noor Agha were part of the plan and had followed Dawood and his men in another car as back-up; and that both had lead the police to the spot where the Deceased was shot from where two empties of a 9mm firearm were recovered. Wali Muhammad was then arrested on 16.10.2022 along with an unlicensed 9mm pistol which is alleged to be the murder weapon. He admitted that he was the Deceased's brother-in-law, and confessed that he had hired Dawood and his men from Quetta to murder the Deceased in revenge for molesting his (Wali Muhammad's) younger sister while she was attending to the Deceased's ailing wife; he disclosed that Dawood and his men stayed and made their plan at the flat of the Muhammad Naseem (*Applicant*

1); and that the amount of Rs. 500,000/- to pay-off Dawood was funded by Abdul Wahab Khan (*Applicant 2*) who was a cousin of Noor Agha and Wali Muhammad. The Complainant also informed that Abdul Wahab Khan (*Applicant 2*) had a business dispute with the Deceased.

5. Thus, the investigation thus far implicates both Applicants as aiders and abettor in the murder of the Deceased. The foremost submission of learned counsel for Muhammad Naseem (*Applicant 1*) is that his confession extracted during police interrogation is no evidence against him. However, that would have been correct had he not lead the police to the spot where the Deceased was shot, previously unknown to the police, and from where empties were allegedly recovered of a 9 mm firearm, which are being tied by the prosecution to the pistol recovered from Wali Muhammad. Therefore, at this stage there are reasonable grounds to believe the involvement of Muhammad Naseem (*Applicant 1*) in the offence alleged. A deeper appreciation of the evidence at this stage is neither possible nor desirable.

6. As regards Abdul Wahab Khan (*Applicant 2*), learned counsel representing him had submitted primarily that he had been implicated solely on the statement of the accused Wali Mohammad. While that may be correct, that by itself is not ground enough to hold that the case against him is made-up with *malafides*. There does not appear any motive with Wali Muhammad to falsely implicate the *Applicant 2*. Needless to state that the test for pre-arrest bail is primarily an assessment of *malafides*. On the other hand, the APG Sindh draws attention to police papers which contain a letter dated 05.03.2021 sent by the Deceased during his lifetime to P.S. Sohrab Goth, naming certain persons who had threatened to kill him, one of them being 'Wahab' (*Applicant 2*), which then supports the statement of the Complainant that there was a dispute between the Deceased and the Applicant 2.

7. For the foregoing reasons, both bail applications are dismissed with the note that observations herein are only tentative and nothing herein shall be construed to prejudice the case of either side at trial.

\*PA/SADAM\*

**JUDGE**