

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**Criminal Bail Application No. 1776 of 2023**  
(Samra vs. The State)

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Date	Order with signature of Judges
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For hearing of bail application

**04.10.2023**

Mr. Ghulam Asghar Khuhro, advocate for the applicant  
Mr. Muhammad Anwar Mahar, DDPP for the State

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It is alleged that the applicant with rest of the culprits in furtherance of their common intention committed murder of Gulfam by strangulating his throat who happened to be her husband and then gave it cover of suicide by hanging his dead body with ceiling fan, in order to cause disappearance of evidence to save themselves from legal consequences, for that the present case was registered.

The applicant on refusal of bail by learned V-Additional Sessions Judge, Malir Karachi, has sought for the same from this Court by way of instant bail application under Section 497 Cr.P.C.

Heard arguments and perused the record.

Complainant Pervaiz Maseh is not eye witness to the incident. None indeed has seen the applicant committing the alleged incident. The FIR of the incident has been lodged with delay of about 04 months. If for the sake of argument, it is believed that the applicant has admitted her guilt before the law enforcing agencies, even then, such admission on her part in terms of Article 39 of Qanun-e-Shahadat Order, 1984, could not be used against her as evidence. Co-accused Gul Muhammad has already been admitted to bail. The case has finally been challaned and there is no likelihood of absconsion or tampering with the evidence on the part of the applicant who it is said is also having a suckling baby. In these circumstances, a case for

release of the applicant on bail on point of further inquiry is made out.

In case of *Mst. Ghazala vs. The State and another* (2023 SCMR 887), the Apex Court has held that:

*“4. No doubt, the offence of Qatl-i-amd (intentional murder) punishable under section 302, P.P.C. alleged against the petitioner falls within the prohibitory clause of section 497(1) of the Code of Criminal Procedure, 1898 ("Cr.P.C.") but being a women, the petitioner's case is covered by the first proviso to section 497(1), Cr.P.C. The said proviso, as held in Tahira Batool case,<sup>1</sup> makes the power of the court to grant bail in the offences of prohibitory clause of section 497(1) alleged against an accused under the age of sixteen years, a woman accused and a sick or infirm accused, equal to its power under the first part of section 497(1), Cr.P.C. It means that in cases of women accused etc. as mentioned in the first proviso to section 497(1), irrespective of the category of the offence, the bail is to be granted as a rule and refused only as an exception in the same manner as it is granted or refused in offences that do not fall within the prohibitory clause of section 497(1), Cr.P.C. The exceptions that justify the refusal of bail are also well settled by several judgments of this Court.<sup>2</sup> They are the likelihood of the accused, if released on bail: (i) to abscond to escape trial; (ii) to tamper with the prosecution evidence or influence the prosecution witnesses to obstruct the course of justice; and (iii) to repeat the offence.”*

In view of above, the applicant is admitted to bail subject to her furnishing surety in sum of Rs.200,000/- (Rupees Two Lacs only) and P.R bond in the like amount to the satisfaction of the learned trial Court.

Instant bail application is disposed of accordingly.

JUDGE