

THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No. 1857 of 2023

For hearing of Bail Application.

Applicant/ Accused : Tehseen son of Tajamal Hussain, through Sardar Salman Ishaque, Advocate.

Complainant : Muzaffar Hussain son of Murtaza Hussain Khan, through Mr. Liaquat Ali Khan, Advocate, alongwith Complainant.

State : Through Mr. Siraj Ahmed Khan Chandio, Additional Prosecutor General Sindh.

Date of hearing : 10-10-2023

Date of order : 10-10-2023

FIR No. 247/2023
u/s: 302/34 r/w 201, 202 PPC
P.S. Nazimabad, Karachi.

ORDER

Adnan Iqbal Chaudhry J. - The applicant/accused Tehseen seeks post-arrest bail in the aforesaid crime after the same was declined by the Additional Sessions Judge-VII/MCTC-2, Karachi (Central) by order dated 16-08-2023.

2. The case is of the murder of one Azhar Khan, brother of the Complainant, whose dead-body was found on 05-06-2023 at a morgue of the Edhi Foundation having been brought there on 04-06-2023 and entered with a wrong name. As per the FIR, lodged on 07-06-2023, the Complainant reported that on 03-06-2023 Shahab, the brother-in-law of the deceased disclosed that on said date the deceased came to the house of his sister-in-law Huma (co-accused), where a fight ensued between the deceased and Mehboob (Huma's husband - co-accused) during which the deceased fell, hit his head and died.

3. Though the exact cause of death has yet to be determined, the investigation revealed that the death occurred at the house of Huma and Mehboob, the in-laws of the deceased, and that the applicant Tehseen helped them in shifting the dead body, hence his arrest on 09-06-2023. As per the challan, Huma emerged at the P.S. on 10-06-2023 and offered her arrest. She narrated that the deceased misbehaved with her at her house which enraged her husband Mehboob; that a fight ensued between Mehboob and the deceased during which he fell, hit his head and died; that in a state of panic she thought to cover up the incident and called her brother-in-law Taabish, who sent his friend Tehseen to help in shifting the dead body from the house.

4. Heard the counsel, the APG Sindh, and perused the record.

5. As per the investigation, the applicant Tehseen was not present at the place of incident at the time of death. That is also the statement given by the co-accused Huma. Thus, it is not even alleged that Tehseen was complicit in the murder.

6. The role assigned to the applicant Tehseen is that he was the one who assisted Huma in shifting the dead body from the house. Though it is insinuated that Tehseen was sent by Taabish to conceal the death and to get rid of the dead body, the facts are not so, as the dead body was taken in an ambulance to the hospital and then eventually deposited at the morgue. According to Tehseen's statement, though he did accompany Huma for such purpose, she was the one who gave a false identity of the deceased at the hospital and the morgue.

7. Be that as it may, even assuming that the applicant Tehseen was complicit in concealing evidence of the murder to screen the offender, or of intentionally omitting to report said offence, *viz.* offences under section 201 and 202 PPC, then both said offences are bailable. Therefore, the accused Tehseen s/o Tajamal Hussain is granted bail in FIR No. 247/2023 subject to furnishing solvent surety

in the sum of **Rs. 100,000/- [Rupees One Hundred Thousand only]** alongwith P.R. Bond in like amount to the satisfaction of the Nazir of this Court.

Needless to state that observations above are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

*SHABAN**