

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail Application No.S-192 of 2024

Applicant : Abdul Haneef, through
Mr. Liaquat Ali Malano, Advocate

Respondent : The State, through
Mr. Sardar Ali Shah
Depty Prosecutor General

Date of hearing : **01-07-2024**

Date of Decision : **01-07-2024**

O R D E R

Arbab Ali Hakro, J: - Through this bail application under Section 497 Cr.P.C, applicant Abdul Haneef, son of Mir Ahmed @ Goro, seeks post-arrest bail in Crime No.26/2020, registered under sections 302, 311, 147, 148, 149 P.P.C at Police Station Sarhad. Previously, the applicant had filed Crl. Bail Application No.390 of 2024, before 2nd Additional Sessions Judge, Mirpur Mathelo, which was dismissed vide order dated 19.03.2024; hence, the applicant approached this Court.

2. The facts of the prosecution case are that complainant ASI Muhammad Sukhyal Sanghar lodged FIR on 14.04.2020 at 2020 hours at P.S stating therein that on 12.04.2020, he, along with his subordinate staff proceeded from PS vide roznamcha entry No.22 at 1845 hours for patrolling in the area. During patrolling, when they reached the house of Mir Ahmed @ Goro Machi, they heard a beseeched of a girl that did not kill her as she was not '*kari*'. The complainant party stopped the vehicle, and on the bulbs light, they saw that the accused 1) Mir Ahmed @ Goro S/o Rehmatullah, 2) Abdul Haneef S/o Mir Ahmed @ Goro, 3) Abdul Jabbar S/o Ibrahim 4) Rahib Ali S/o Rehmatullah 5) Muhammad Moosa @ Mooso S/o Rabnawaz, all by caste Machi, R/o Village Jam Muhammad Ali Lakhan

Taluka Ghotki while pointing Kalashnikovs upon a lady, asked that Mst.Zameeran is *Kari* with Qadeer Ahmed Lakhan, and today, they will commit her murder. The complainant party raised hakals but in the meantime, all the accused opened fire upon Mst.Zameeran to commit her murder. Thereafter, all the accused persons ran away. They were chased by the Police party, but due to the advantage of darkness, they managed to escape. The police party came back and saw that the lady had died, and some women were available there who informed the Police that she was Mst.Zameeran W/o Abdul Ghaffar D/o Basheer Ahmed Machi is about 25 years old. They saw dead body of the deceased Mst.Zameeran sustained fire shots on the right side of the neck, right side of the cheek, right side of the chest, left side of the chest, and the right side of the thigh. The blood was oozing, and she died. After that, the dead body was shifted to Taluka Hospital Mirpur Mathelo through PC Ali Murad Jiskani for post-mortem. After getting a post-mortem, the complainant lodged an FIR of the incident on behalf of the State accordingly.

3. The investigation began, and eventually, the applicant was arrested and sent to stand trial before the competent Court of law.

4. At the very outset, it has been argued by the learned counsel for the applicant that the applicant is innocent and has been falsely roped in this case against the actual facts and circumstances. He further argued that there was a delay of two days in lodging the FIR without a plausible explanation. He further submitted that there are general allegations; no specific role has been assigned to the applicant/accused, and no recovery was effected from his possession. He next argued that the legal heirs of the deceased, i.e. mother and two brothers, have also filed their affidavits of no objection to granting bail in favour of the applicant/accused. Hence, he prayed that the applicant/accused may be enlarged on bail.

5. Learned A.P.G. vehemently opposed the grant of bail to the applicant on the grounds that the applicant has been nominated in F.I.R. and that the affidavits filed by the legal heirs of the deceased are of no legal effect. He further pointed out that Section 311 P.P.C has been inserted by the Police in the F.I.R and said Section provides punishment as Ta'zir for the

offender and keeping in view the facts and circumstances the principle of "*Fasad-fil-arz*" is attracted, as the murder of deceased was on the pretext of "*karo-kari*". He further contended that in this case, the murder of a young woman was caused by her relative, i.e., the applicant; hence, he is not entitled to the concession of bail. He added that as the offence is heinous, punishable by death and life imprisonment, the applicant is not entitled to a concession of bail. He relied upon the case law reported in 2019 P CrL J Note 143, 2021 YLR Note 138.

6. I have heard learned counsel for the applicant and learned A.P.G. for the State and perused the material available on record.

7. Perusal of the record reflects that the incident of this case is gruesome in that a young girl of 25 years was done to death on the pretext of "*karo-Kari*". The applicant is one of the nominated accused of committing the murder of deceased Mst.Zameeran. The ocular, medical, and circumstantial evidence available on the record, prima facie, connect the applicant with the commission of the offence. Moreover, the offence with which the applicant stood challaned falls within the prohibitory clause of Section 497 Cr.P.C. It is worth mentioning that the killing of innocent people, especially women, on the pretext of '*karo-kari*' has become a routine practice rather than a fashion, and it is high time to discourage such kind of unwarranted and shocking practice, resulting in a double murder in the name of so-called honour killing. As regards the delay in lodging of FIR, it has been observed that such type of offences are not being registered by the family members of the deceased due to fear and enmity; the present case is an example of one of them. The Police had no enmity with the present applicant to implicate him falsely in this case.

8. As regards the contention of learned counsel that the legal heirs of the deceased, i.e mother and two brothers, have filed their affidavits of no objection for grant bail in favour of the applicant/accused, I am not impressed with this argument of learned counsel for the reasons that an innocent lady has been killed on the pretext of "*karo-kari*", and the applicant is making every effort to save his skin from the clutches of law. Even otherwise, merely filing an

affidavit of no objection, the applicant has not become automatically entitled for grant of bail. Moreover, this is an application for post-arrest bail, which is to be decided by considering the material tentatively, and deeper appreciation cannot be made. The Supreme Court of Pakistan, in the case of *Muhammad Akram Khan V. The State (PLD 2001 Supreme Court 96)*, while dealing with a similar case involving honour killing, observed that "legally and morally speaking, nobody has any right nor can anybody be allowed to take law in his own hands to take the life of anybody in the name of "Ghairat". Neither the law of the land nor religion permits so-called honour killing, which amounts to murder (Qatl-i-Amd) simpliciter. Such iniquitous and vile act is violative of fundamental rights as enshrined in Article 9 of the Constitution of Islamic Republic of Pakistan, which provides that no person would be deprived of life or liberty except in accordance with law and any custom or usage in that respect is void under Article 8(1) of the Constitution of Islamic Republic of Pakistan, 1973.

9. In the case of the commission of double-murder on pretext of "Siyahkari", reported *PLD 2012 Balochistan 179 (Khadim Hussain and others V. The State)*, it was held that *"a tentative perusal of the record shows that the applicants are involved in the commission of murder of two innocent persons on the pretext of 'Siyahkari' while taking law of the land in their own hands, thus, at this stage, they invoke no sympathy and do not qualify for the grant of relief by the Court. The alleged offence committed by the applicants, prima facie, falls within the preview of section 311, P.P.C., which has not been mentioned in the table, as contained in section 345 (2) of the Cr.P.C. and is not compoundable. I am of the considered view that brutal murders of innocent girls on the pretext of 'siyahkri' are mainly against the State and society and not against an individual. Moreover, the offences cannot be compounded automatically by the legal heirs, but it is always through the Court and the Court can decline the permission to compromise the offence by the legal heirs of victim(s), keeping in view the peculiar circumstances of the case."*

10. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the commission of the alleged offence; therefore, he is

not entitled to a concession of bail; hence, I **Dismiss** this criminal bail application.

11. It is important to note that the observations made hereinabove are tentative in nature only to decide this bail application, which shall not in any manner influence the trial court at the time of the final decision of the subject case. However, the learned trial court is directed to proceed with and conclude the trial expeditiously.

JUDGE