

# THE HIGH COURT OF SINDH KARACHI

## Criminal Bail Application No. 1645 of 2024

Applicants/ Accused : i. Abdul Wahab Khan son of Nawab Khan  
ii. Noor Agha son of Gul Muhammad  
through Mr. Raj Ali Wahid Advocate.

Complainant : Abdul Khanan son of Sahibzada through Mr. Salahuddin Khan Gandapur, Advocate a/w Safir uddin Khan Gandapur, Advocate.

The State : Through Ms. Anila Malik, Assistant Prosecutor General, Sindh.

Date of hearing : 11-09-2024

Date of order : 11-09-2024

FIR No. 900 of 2022  
u/s 302, 364, 109 & 34 PPC  
P.S. Sohrab Goth, Karachi

### ORDER

**Adnan Iqbal Chaudhry J.** - In respect of FIR No. 900/2022, a series of bail applications were moved by Abdul Wahab (*Applicant 1*). He was first denied pre-arrest bail by the trial court and then by this Court *vide* order dated 29.03.2023 passed on Criminal Bail Application No. 35/2023. He moved for post-arrest bail which was dismissed by the trial court, and then Criminal Bail Application No. 2589/2023 before this Court was not pressed on 15.01.2024 after arguing it at some length. In April 2024, he moved another bail application before the trial court, citing fresh grounds that emerged during trial, but that was dismissed by order dated 11.07.2024 and hence the present bail application.

As regards Noor Agha (*Applicant 2*), he is before this Court for the first time after he was denied post-arrest bail by the trial court by order dated 11.07.2024.

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 due to heavy rains 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 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 having been shot in the head.

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

5. The manner in which the crime unraveled is detailed in the challan as follows. The investigation led to the Muhammad Naseem and Noor Aga (*Applicant No.2*), who were arrested from Machar Colony on 10.10.2022. On interrogation they disclosed 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 turned out to be Dawood's brother, whereas Noor Aga (*Applicant No.2*) was Wali Muhammad's brother. They further disclosed 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; and that both of them (Muhammad Naseem and Noor Agha) were part of the plan and had followed Dawood and his men in another car as back-up.

6. As per the challan, both Muhammad Naseem and Noor Aga (*Applicant No.2*) had led 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 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; he disclosed that Dawood and his men stayed and made their plan at the flat of the Muhammad Naseem; and that the amount of Rs. 500,000/- to pay-off Dawood was funded by Abdul Wahab (*Applicant 1*) who was a cousin of Noor Agha (*Applicant 2*) and Wali Muhammad.

7. Thus, the investigation implicated both the Applicants as aiders and abettor in the murder of the Deceased. The motive alleged against Abdul Wahab (*Applicant 1*) is that he had a business dispute with the Deceased.

8. Learned counsel for the Applicants submits that the extra-judicial confession of Noor Agha (*Applicant 2*) cannot be used as 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 have been tied by the prosecution to the pistol recovered from Wali Muhammad. Therefore, at this stage, there is a reasonable ground to believe the complicity of Noor Agha (*Applicant 2*) in the murder. A deeper appreciation of the evidence at this stage is neither possible nor desirable.

9. As regards Abdul Wahab (*Applicant 1*), the prosecution also relies on a letter dated 05.03.2021 allegedly 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 1*). That supports the statement of the Complainant that there was a dispute between the Deceased and the Applicant 1.

10. This brings us to the purported fresh ground for seeking bail by Abdul Wahab (*Applicant 1*). Learned counsel for the Applicants

submits that PW-1 (Complainant) and PW-2 (son of Complainant) have not brought any evidence to show that the amount paid to the killers was provided by Abdul Wahab (*Applicant 1*); and secondly, that the alleged letter by the Deceased to P.S. Sohrab Goth naming the Applicant 1 as a death threat, has emerged to be fake in a verification report submitted by the SHO of that P.S.

The first submission has hardly any force when the fact of payment by the Applicant 1 is only one of the circumstances against him, and when other prosecution witnesses have yet to be examined in that regard. As regards the second submission, learned counsel acknowledges that the verification report of the SHO P.S. Sohrab Goth has yet to be tendered in evidence and said SHO has yet to be confronted with it. In such circumstances, the testimony only of the Complainant and his son does not bring forth any fresh ground to reconsider bail for Abdul Wahab (*Applicant 1*).

11. Learned counsel for the Applicants then relies on the bail granted to Muhammad Naseem (co-accused) by the trial court on a subsequent bail application after he had been denied bail by this Court. That order shows that he was granted bail solely on the consent given by the Complainant and the widow of the Deceased, who stated that they had compromised with him out of Court. Clearly, that order is of no help to the Applicants herein.

12. For the foregoing reasons, bail is denied to both the Applicants. Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

**JUDGE**

\*PA/SADAM\*