

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No.712 of 2024
(Mst. Noreen v. The State)

Date	Order with signature of Judge
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For hearing of bail application

03.05.2024

Mr. Kanwar Altaf Bhatti, advocate for the applicant
Mr. Muhammad Anwar Mahar, DDPP for the State
Mr. Liaquat Ali Awan, advocate for the Complainant

It is alleged that the applicant with the rest of the culprits robbed P.W Lubna of her gold ornaments and other belongings when she was sitting alone in her house, for which the present case was registered.

The applicant having been refused bail by learned XIIth-Additional Sessions Judge, Karachi, West has sought the same from this Court by way of instant bail application under Section 497 Cr.P.C.

It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police at the instance of the complainant party, therefore, she being a lady is entitled to be released on bail on point of further inquiry, which is opposed by learned DDPP for the State and learned counsel for the complainant by contending that there is recovery of certain robbed articles from her and offence which she has committed is affecting the society at large.

Heard arguments and perused the record.

The complainant is not an eyewitness to the incident. The name of the applicant does not appear in the FIR; it was disclosed by co-accused Tanveer Ahmed who happened to be her husband; such disclosure could hardly be used as evidence against the applicant. The applicant has not been subjected to an identification parade through the Magistrate. The wristwatches and artificial ornaments are alleged by the applicant to have been foisted upon her by the police by arranging the same from the market. The applicant is a lady as such she is entitled to the benefit of 1st

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proviso to section 497 Cr. PC. The case has finally been challaned. There is no likelihood of absconsion or tampering with the evidence on her part. In these circumstances, a case for the release of the applicant on bail on the point of further inquiry is made out.

In the 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,¹ 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.² 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.”

Under the given circumstances, the applicant is admitted to bail subject to her furnishing surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R bond in the like amount to the satisfaction of the learned trial Court.

Instant bail application is disposed of accordingly.

J U D G E