

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Cr. B.A. No.S-502 of 2024

Applicant: Zeeshan Ahmed, through Mr.Jamal  
Nasir Bullo, Advocate.

Complainant: Amjad Hussain, through Mr. Qurban Ali  
Malano and Mr Mujeeb-ur-Rehman  
Malano,Advocates.

The State: Mr. Shafi Muhammad Mahar, D.P.G.

Date of hearing: 14-11-2024  
Date of Decision: 14-11-2024

**ORDER**

**Zulfiqar Ali Sangi, J.**-Through instant application, Applicant Zeeshan Ahmed seeks post-arrest bail in Crime No.44 of 2023, registered at Police Station Dadloi, under section 302, 392, 120-B and 34 PPC. Initially, bail plea preferred by the Applicant was declined by learned Additional Sessions Judge, Pano Akil vide order dated 25.06.2024.

2. The facts of the prosecution case, in brief, are that on 09-11-2023 at 1400 hours complainant lodged the FIR that on 06-11-2023, he along with Muhammad Ali, Abdul Rasheed and Allah Bakhsh was present at Alipur College Chowk where accused Zeeshan Ahmed along with three unidentified accused persons came at 1.00 pm and took Muhammad Ali in Alto Car bearing registration No.ANW-151 for some work. Zeeshan did not return till 07-11-2023 and at late hours Muhammad Ali informed him that he is with Zeeshan Ahmed and others at Sukkur and then his mobile phone gone switched off. Complainant came to know through social media that Muhammad Ali has been murdered, he contacted with Zeeshan Ahmed on cell No. 0305-2300446; who informed him that Muhammad Ali was shot down by him on the last day and his dead body was thrown at National Highway road Pano Akil city and his car, purse containing cash amount, ATM cards, NIC and mobile phone are with him. The complainant than came to know that the dead body of Muhammad Ali is lying in the Taluka Hospital Pano Akil where they went and saw the dead body having one firearm injury through and through at his heart

and two firearm injuries at chest. After the formalities complainant took dead body for funereal and thereafter lodged the FIR.

3. Learned counsel for the Applicant submits that there is delay in lodging of F.I.R. as the incident was taken place on 06-11-2023 but F.I.R. was registered on 09-11-2023; that there is no eye-witness of the incident of murder; recovery of car of the deceased is foisted upon the applicant in fact nothing was recovered from him; that the case is of two versions both are introduced by the complainant himself one in FIR and the other in further statement. Lastly, contended that case of the Applicant covered under section 497(2) Cr.P.C. and requested that Applicant may be enlarged on bail.

4. Learned Counsel for the complainant and learned A.P.G. while opposing the bail plea of the Applicant have argued that the delay in lodging the F.I.R. has been properly explained by the complainant as he was busy in searching the deceased and on knowledge of his death, he came at police station and lodged such F.I.R; that statements under section 161 of P.Ws were recorded wherein they have fully implicated the Applicant in commission of offence. Lastly, they contend that the deceased was lastly seen with the applicant and applicant himself confesses about the murder and requests for dismissal of this application.

5. I have heard the arguments of the learned counsel for the parties and have perused the material available on record.

6. From perusal of the material available on record it appears that the incident as alleged in the FIR was took place on 06-11-2023 when on the said date at 2130 hours the applicant along with unknown persons took the deceased for some work and on non-returning applicant was approached who informed the complainant that he committed the murder but the FIR was not registered. Even after the recovery of dead body the FIR was not registered. The FIR was registered on 09-11-2023 which speaks that it was registered after deliberation and consultation. The version set out by the complainant in FIR is also not supported by the complainant himself while recording further statement after the FIR was registered. The version given in FIR by the complainant that it was the applicant who informed him that he committed the murder of deceased Muhammad Ali is totally unbelievable after going through the further statement of

complainant which was recorded on 26-12-2024 after about 47 days from the FIR wherein complainant stated that on 07-11-2023 he along with Zeeshan (applicant) and others proceeded for Pano Akil for receiving the dead body and Zeeshan asked him that he had talked with SHO during such talk SHO Ghulam Hyder Behan informed him (applicant Zeeshan) that he had some clue about the accused persons. Complainant further stated in further statement that Zeeshan asked him that his friends are coming therefore he will come with his friends by stating so he go down from the vehicle of complainant and then not reached for taking dead body. The narration in further statement is completely different from the FIR which makes the case of applicant one of further inquiry.

7. The statements under section 161 Cr.P.C. of the witnesses were recorded with the delay which too has not been explained and this ground alone is sufficient to grant bail to the Applicant. In this context, reference can be made to the case of **Suba Khan v. Muhammad Ajmal and 2 others** (2006 SCMR 66) wherein the Honourable Supreme Court of Pakistan observed as under:-

*“ ---S. 497(5)---Penal Code (XLV of 1860), Ss,302/324/148/149---Constitution of Pakistan (1973), Art.185(3)---Cancellation of bail, refusal of---Occurrence had taken place at night in which a number of accused had participated---Statements of the injured witness as well as of the two women witnesses who were inmates of the house were not recorded on the same day---High Court in circumstances had rightly formed the opinion that the essential conditions for grant of bail under S.497(2), Cr.P.C. were satisfied, and the same did not call for any interference by Supreme Court---Petition for cancellation of bail was consequently dismissed and the leave to appeal was refused accordingly.”*

In another case law i.e. **Muhammad Mansha v. The State** (1997 PCr.LJ 569), it was held as under:-

*“S. 497(2). Accused would be entitled to bail when statements of P.Ws. recorded two days after occurrence make their case one of further inquiry.”*

8. For the recovery of the Car and other articles belongs to deceased from the applicant after considerable time the trial court will decide its fate after recording evidence of both the parties and at this stage by scanning the material available on record as discussed above, I am of the view that the applicant has made out a good prima facie case for grant of bail, therefore, the bail application was allowed by short order dated: 14-11-2024 and these are the reasons.

9. Needless to mention that the observations made hereinabove are tentative in nature and will not cause any prejudice to either party at trial.

JUDGE