

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 883 of 2024

<i>Date</i>	<i>Order with signature of Judge</i>
Applicant Muhammad Rahu son of Muhammad Ismail (present on bail)	: through M/s. Muhammad Daud Narejo & Muhammad Yousuf Narejo, Advocates
The State	: Through Mr. Saleem Akhtar Buriro, Addl. Prosecutor General, Sindh a/w SIP Javed Ahmed of P.S Zaman Town, Karachi
Complainant Ahmed Rahu son of Muhammad Hussain	: Through Mr. Muddasir Iqbal, Advocate
Date of hearing	: 07.10.2024
Date of order	: 07.10.2024

ORDER

Muhammad Saleem Jessar, J:- By way of instant application, applicant Muhammad Rahu son of Muhammad Ismail seeks his admission to pre-arrest bail in Crime No.791 of 2020 registered with P.S Zaman Town, Karachi for the offence punishable to Sections 302, 109 & 34 PPC. The applicant along with co-accused filed Criminal Bail Application No. 5142 of 2020 before the Court of Sessions which later was assigned to learned 11th Addl. Sessions Judge, Karachi (East), who after due notice and hearing the parties, turned down his request for bail vide its common order dated 04.02.2021. After dismissal of his pre-arrest bail application by the Court below, applicant went undergone for a noticeable period; meanwhile, the police after completion of legal formalities submitted challan by showing applicant as absconder, which is now pending for trial before the Court of 5th Addl. Sessions Judge, Karachi (East) vide Sessions Case No.1316

of 2024 (re-the State Versus Muhammad Rahu and another). After taking cognizance, the trial Court issued NBWs against applicant / accused; however, he could not be traced, therefore, after completion of proceedings under Section 87 & 88 Cr.P.C, he was declared as proclaimed offender in terms of order dated 23.04.2021.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. M/s. Muhammad Daud Narejo and Muhammad Yousuf Narejo, learned counsel for the applicant submitted that deceased was wife of the applicant and at the time of her death no source of causing injury or death was found, therefore, applicant being innocents, deserves to be admitted to pre-arrest bail; hence, prayed for grant of bail application as well as confirmation of earlier order.

4. On the other hand, Mr. Saleem Akhtar Buriro, Addl. P.G, Sindh appearing for the State, opposed the bail application on the ground that a serious allegation of committing murder of his own wife was leveled against him but the accused instead of surrendering before the Court below, has chosen to remain fugitive for a noticeable period and after four years he appeared without explanation. He, therefore, submitted that PWs had categorically implicated him in the case; besides, the offence with which he stands charged, involves with a capital punishment, therefore, in such like cases bail cannot be granted frequently; hence, he prayed for dismissal of the bail application.

5. Mr. Muddasir Iqbal, learned counsel for the complainant while adopting arguments advanced by learned Addl. P.G, Sindh, also opposed the bail application and submitted that accused is a highly dangerous and desperate criminal; besides, is exerting pressure upon the complainant / victim family not to pursue the case *else* they would also be put under boiled water. He, therefore, submitted that since the case has been challaned, hence, by dismissing instant bail application, accused may be taken into custody so that complainant/victim family may be in a better position to proceed with the trial.

6. Heard arguments, record perused. Admittedly, the applicant is nominated in the FIR and the charge leveled against him by the prosecution is of a heinous offence. The punishment provided by the law for the offence he stands charged, is capital one, therefore, in such like cases, bail cannot be granted frequently. No malafide or any ulterior motive has been shown against the prosecution for involving him falsely and in absence of any malafide on the part of prosecution/victim family, the accused, who has been charged for a murder of an innocent lady, cannot be granted an extraordinary relief in shape of pre-arrest bail more particularly when he remained fugitive from the law right from the date of dismissal of his earlier bail application in the year 2021. The plea taken by accused that deceased died due to Covid, carries no weight as the medical report brought on record by the prosecution was negative. The conduct of accused, as shown in the FIR, is also dubious.

7. In the circumstances and in view of above factual position of record as well as conduct of accused while remaining absconder, bail application in hand merits no consideration. Consequently, it being devoid of its merits, was dismissed by a short order dated 07.10.2024 and the applicant was taken into custody. These are the reasons of said short order.

8. A copy of this order shall be sent by fax to trial Court, for compliance, with directions to conclude the trial within four (4) months' time, under intimation to this Court. The prosecution shall ensure procurement of its witnesses before the trial Court without causing any negligence. A copy of this order shall also be sent by fax to learned Sessions Judge, Karachi (East), for compliance.

JUDGE

Zulfiqar/P.A