

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.389 of 2025

Applicant : Waseem s/o Ahmed Nawaz Khan
through Mr. Muhammad Akbar, Advocate

Respondent : The State
through Ms. Rubina Qadir Addl. P.G. Sindh.

Complainant : Izrar
through Ms. Erum Complainant, Advocate.

Date of hearing : 24.03.2025.

Date of order : 08.04.2025.

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant Waseem seeks post-arrest bail in a case bearing crime No.383/2024 offence u/s 302, 201, 297, 109 & 34 PPC of Police Station Madina Colony. The applicant's previous bail plea was declined by the learned Additional District & Sessions Judge-X, West Karachi, through an order dated 31-01-2025.

2. The prosecution's case, in essence, is that on 06-11-2024, the complainant Izrar lodged an FIR stating, he contacted marriage with Mst. Ruqaya in 2014 and from the wedlock having two children, Romaisa and Abbas. Romaisa was married to Rashid, a resident of Manghopir Colony. On the same day, while the complainant visited his sister's house, Ruqaya and Abbas went to Mianwali Colony following an invitation from Kusloom, wife of Kamran Niazi. Later, Kamran brought Abbas back and informed the complainant that Ruqaya had gone to see someone named Roheena. The complainant, after leaving Abbas with his sister, attempted to contact his wife but was unsuccessful. Upon inquiring from Abbas, he was told that Kamran and Kusloom had beaten Ruqaya, locked her in a room, and then Kamran struck her on the head with a spice grinder while Kusloom strangled her. Abbas alleged that after the incident, Kamran called Sarfaraz, Nawaz, and Waseem, who took Abbas out and warned him to stay silent. On 13-11-2024, a tortured body was discovered at Ghaghar Phatak, Bin Qasim, later identified as Ruqaya. Consequent upon; case was registered inter-alia on above facts

3. Learned counsel argued that the applicant has been falsely implicated out of malice. He emphasized that the complainant is not an eyewitness and that all information was based on hearsay from Abbas. The FIR was delayed by seven days, weakening the prosecution's credibility. Furthermore, Abbas, in his statement under Section 164 Cr.P.C., did not mention Waseem's name or allege his involvement in the disposal of the body. The allegation regarding the truck used to move the body was termed baseless. The fatal blow to Ruqaya, counsel argued, was clearly attributed to Kamran, and no role had been assigned to Waseem in the murder. The counsel also cited precedents and noted that co-accused Sarfaraz had already been granted bail under similar circumstances.

4. In rebuttal, the learned DPG for the State opposed the bail request, arguing there was no evidence of enmity to suggest false implication. The call data record, she submitted, confirmed the accused's role in transporting the body to Ghaghar Phatak. The location and condition of the body indicated the applicant's involvement. Hence, the DPG requested that the bail application be denied.

5. The central accusation against Waseem is his alleged involvement in transporting the deceased's body using a truck. However, the prosecution has not presented any conclusive or independent evidence to substantiate this. His name appears in the FIR without accompanying proof, weakening the case.

6. Abbas, the complainant's son and purported eyewitness, gave three statements under Section 161 Cr.P.C. (dated 14-11-2024, 02-12-2024, and 31-01-2025), followed by a statement under Section 164 Cr.P.C. on 06-02-2025. In each, he stated that Kamran and Kusloom were responsible for Ruqaya's death. He claimed Kamran later abandoned him at Bismillah Chowk. At no point did he implicate Waseem, Sarfaraz, or Nawaz in disposing of the body. These consistent omissions cast serious doubt on the prosecution's position, given Abbas's central role as an eyewitness.

7. Abbas's failure to mention Waseem or other co-accused in any of his statements is a significant gap. Furthermore, no identification parade was conducted to verify Abbas's claims or link Waseem to the crime. The

reliance on hearsay, absence of corroboration, and failure to connect Waseem to the crime scene raise serious concerns about the reliability of the prosecution's case.

8. The seven-days delay in filing the FIR, despite ample opportunity for prompt reporting, further casts doubt. Given that co-accused Sarfaraz has already been granted bail, judicial consistency demands similar treatment for Waseem, especially since the allegations and circumstances are almost same.

9. Whether the accused is guilty will be determined at trial. At this preliminary stage, the discrepancies in witness statements and lack of supporting evidence necessitate further inquiry under Section 497(ii) Cr.P.C. Accordingly, the bail application is allowed. Waseem shall be released on bail upon furnishing a surety of Rs. 500,000/- (Rupees Five Hundred Thousand only) and a P.R. bond in the same amount to the satisfaction of the learned trial court. These observations are tentative and shall not affect the outcome of the trial.

J U D G E

Shahbaz/PA