

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

*Criminal Bail Application No. S-2563 of 2025*  
*(Zulfiqar Ali Khan vs The State)*

**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

*For hearing of bail application.*

**15.12.2025.**

Mr. Aamir Mansoob Qureshi, Advocate for the applicant  
Mr. Mumtaz Ali Shah, Assistant Prosecutor General.

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**Ali Haider 'Ada', J:-** Through this bail application, the applicant/accused Zulfiqar Ali Khan, son of Anwar Ali Khan, seeks the concession of post-arrest bail in FIR No. 1838 of 2021, registered at Police Station Surjani Town, Karachi, for an offence punishable under Section 302 PPC. Earlier, the applicant approached the learned Additional Sessions Judge-X, Karachi West, seeking the same relief; however, his application was dismissed vide order dated 20.09.2025.

2. Briefly, the prosecution's case as set out in the FIR is that the complainant, Mst. Urooj Kiran lodged the present FIR on 26.11.2021, alleging that her sister, namely Laraib, died by strangulation with a dupatta at the hands of her husband, Zulfiqar Ali Khan (the present applicant). The alleged incident is stated to have taken place on the same date.

3. Learned counsel for the applicant submits that although the present bail application has been filed primarily on statutory grounds, the learned trial Court, while dismissing the bail application, also touched upon the merits of the case. It is contended that once the merits have been discussed, this Court is fully competent to examine the matter on the merits as well. On merits, learned counsel argues that the FIR has been lodged on mere suspicion and presumption, as the complainant is admittedly not an eyewitness to the alleged occurrence. It is further contended that there are material inconsistencies in the medical evidence, which create serious doubt regarding the prosecution's version. Learned counsel submits that it is a settled principle of law that where there is inconsistency or doubt in medical evidence, the benefit thereof must be extended to the accused. In support of his contention,

learned counsel places reliance upon Chapter 20 of Modi's Medical Jurisprudence, 26th Edition, and submits that according to the postmortem report, the doctor did not note any fracture of the hyoid bone. He argues that, as per the said medical text, in cases of death caused by strangulation, fracture of the hyoid bone is ordinarily expected, and the absence thereof casts serious doubt on the prosecution's allegation of death by strangulation. On statutory grounds, learned counsel further submits that the case pertains to the year 2021 and only three extensions of time have been sought during the course of trial, which demonstrates a lack of due diligence on the part of the prosecution. On these grounds, it is prayed that the applicant is entitled to the concession of bail on both merits as well as on statutory considerations.

4. On 21.10.2025, the complainant, Mst. Urooj appeared before this Court in the instant matter and expressed her full confidence and relied upon any submissions made by the learned State counsel. Learned Assistant Prosecutor General opposes the bail application. He submits that the trial has already commenced and examination-in-chief of some prosecution witnesses has been recorded, though their cross-examination has been reserved. On merits, learned APG contends that the applicant is fully implicated in the offence through the statements of prosecution witnesses and that the motive behind the occurrence has been clearly established as illicit relations. It is further argued that at the bail stage, this Court is not permitted to undertake a deeper appreciation of the medical evidence, including the postmortem report. Learned APG also submits that there is a genuine apprehension that if the applicant is released on bail, he may influence or pressurize the complainant and prosecution witnesses.

5. Heard the learned counsel for the parties and perused the available record with their assistance.

6. At the outset, it may be observed that although the instant bail application is primarily founded on statutory grounds, it is a well-settled principle of law that even at the bail stage, the merits of the case

can be examined. It is now settled that where circumstances so warrant, the Court is not precluded from touching upon the merits while deciding a bail application. In this regard, reliance may be placed on the judgments of the Hon'ble Supreme Court in *Muhammad Ijaz v. The State* (2022 SCMR 1271), *Javed Iqbal v. The State* (2022 SCMR 1424), and *Sajid Hussain alias Joji v. The State and another* (PLD 2021 SC 898). In view of the settled legal position, the present matter also warrants examination on merits, in addition to the statutory grounds urged by the learned counsel for the applicant.

7. A bare reading of the FIR reveals that the matter was reported to the police by the sister of the deceased, namely Mst. Urooj Kiran, who is admittedly not an eyewitness to the alleged occurrence. Her statement was recorded at Abbasi Shaheed Hospital, wherein she alleged that her sister, Laraib, died at the hands of her husband, Zulfiqar Ali, by strangulation with a dupatta. This version was incorporated by the police while registering the FIR under Section 154 Cr.P.C. It further appears from the record that the police had also received an alternative version from the accused, who claimed that unknown dacoits had murdered his wife.

8. On merits, a tentative assessment of the material available on record reflects inconsistency between the ocular account and the medical evidence. According to Chapter 20 of Modi's Medical Jurisprudence, 26th Edition, certain distinguishing features are prescribed to determine whether death has occurred due to strangulation or hanging. The medical literature highlights that such determination depends upon various factors and findings, which ordinarily require thorough examination and expert analysis. Such issues, by their very nature, are questions of fact that can only be conclusively resolved during the course of trial after recording evidence and subjecting the medical experts to cross-examination. At the bail stage, however, the Court is required to make only a tentative assessment of the prosecution material. In the present case, such tentative assessment of the ocular version and the medical evidence prima facie discloses a conflict between the two, the benefit whereof can

be extended to the accused at this stage. These inconsistencies are sufficient to create reasonable doubt, thereby calling for further probe into the guilt of the accused within the meaning of Section 497(2) Cr.P.C. The Hon'ble Supreme Court has consistently held that where the prosecution evidence, at the bail stage, contains material inconsistencies or raises a conflict between the ocular account and the medical evidence regarding the veracity of the allegations, the accused is entitled to the concession of bail on the ground of further inquiry. Reliance in this regard may be placed upon *Saeed Khan v. The State and others* (2011 SCMR 1392) and *Syed Abdul Baqi Shah v. The State* (1997 SCMR 32).

9. Furthermore, it transpired from the record that after the lapse of almost three years, on 20.09.2025, the complainant, along with one more prosecution witness was examined; however, their cross-examination was reserved. The progress report further shows that non-bailable warrants were issued against the remaining accused.

10. The aforesaid circumstances clearly demonstrate that despite the framing of the charge, the trial has not proceeded with due diligence and expedition. It is a matter of record that nearly three years have elapsed since the framing of the charge, yet only two prosecution witnesses have been examined. No plausible or justified explanation has been offered by the prosecution for such inordinate delay in the conclusion of the trial. This prolonged delay, which is prima facie attributed, cannot be ignored, particularly in a case where the accused has been facing custody.

11. It is well settled that where there is an unreasonable delay in the trial and the prosecution fails to provide a satisfactory explanation, such delay becomes a relevant factor for the grant of bail on statutory grounds. In this regard, reliance may be placed upon the judgments of the Hon'ble Supreme Court in *Muhammad Usman v. The State* (2024 SCMR 28) and *Shakeel Shah v. The State* (2022 SCMR 1).

12. Moreover, accused is entitled to be treated as a favourite child of the law and must be provided a fair opportunity in accordance with Article 10-A of the Constitution of Pakistan. The expression the accused

is the favourite child of law does not imply that the Court is required to grant any unwarranted favour, indulgence, or privileged treatment to the accused. Rather, the phrase is a legal maxim intended to uphold a fair-minded and impartial administration of justice. It functions as a safeguard to ensure that the accused is afforded an impartial right of defence and a fair trial in strict compliance with the due process of law. This principle is an essential component of the safe administration of criminal justice, aimed at preventing erroneous convictions, and reinforces the fundamental doctrine of criminal jurisprudence that an accused is presumed innocent until proven guilty. Reliance in this regard may be placed upon the judgment of the Hon'ble Supreme Court in *Muhammad Riaz v. Khurram Shehzad and another* (2024 SCMR 51).

13. On the aforesaid aspect, when the matter presents flaws or inconsistencies and requires further enquiry, the benefit must go to the accused. This is in accordance with the well-established Latin maxim "*In dubio pro reo*," which means: "*When in doubt, for the accused.*" This principle embodies a foundation of criminal jurisprudence, ensuring that no one is punished in circumstances of reasonable doubt regarding their guilt. Further reliance may be placed upon the judgment of the Hon'ble Supreme Court in *Naveed Sattar v. The State* (2024 SCMR 205), wherein it was held that even at the bail stage, where doubts or inconsistencies exist in the prosecution's case, the benefit of such doubt must be extended to the accused.

14. For the foregoing reasons, the applicant/accused Zulfiqar Ali Khan son of Anwar Ali Khan is hereby granted post-arrest bail in FIR No. 1838 of 2021, registered at Police Station Surjani Town, for an offence punishable under Section 302 PPC, subject to his furnishing a solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) along with a P.R Bond of the like amount to the satisfaction of the trial Court. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the trial. Consequently, the instant bail application is disposed of in the above terms.

**JUDGE**