

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.S-354 of 2014

Date	Order with signature of Judge
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For Katcha Peshi.
(Notice issued for 24.3.2014)

24.03.2014.

Mr. Nasrullah Malik, Advocate alongwith
Petitioner Shabana Anwer.
Mr. Umar Awan, Advocate a/w Respondent No.4.
Mr. Sharafuddin, Mangi State Counsel alongwith
S.I. Abdul Sattar Chohan, P.S. Nazimabad and
S.I. Raja Gul Tabraiz P.S. Pak Colony,

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NAZAR AKBAR, J.

1. This is a harassment petition filed by Mst. Shabana Anwer widow of late Anwar who is reported to have been died after an incident of fire in his house. The petitioner has sought the following reliefs:-

- A) To direct the Respondent No.2 to recover the abductee Master Hamza s/o late Anwer aged 4 years from Respondent No.4 and handover the minor to the petitioner in the interest of justice and restrain the respondents No.2 to 4 not to harass the petitioner illegally, unlawfully and without due course of law and kindly direct the respondents to provide legal protection to the petitioner in accordance with the law.
- B) To direct the respondent No.2 to provide legal protection to the petitioner and help her to look after her house bearing House No.5, ground floor, Block-100, Chotta Medan, near Ghousia Masjid Liaquatabad Town, Karachi and help the petitioner to receive her household articles.
- C) To restrain the respondents not to register FIR against the petitioner without permission of this Hon'ble Court.
- D) Cost of the petition be borne by the respondents.
- E) Any other relief, which this Hon'ble Court may deem fit under the circumstances of the case.

2. Today in compliance of orders dated 14.3.2014 the respondents No.2 & 3 have produced the minor and the Respondent No.4 who is

father-in-law of the petitioner. The Respondent No.4 has handed over 4 years old child (Master Hamza) to the petitioner. It is alleged by the private respondent that the child was left by the petitioner by her own choice at the residence of the Respondent No.4 at the time of Soyam of the petitioner's husband. Be that as it may, the Respondent No. 4 has handed over custody of the child to the petitioner without any reservations. The petitioner has taken custody of her son in the open Court.

The counsel for the respondent No.4 has contended that the petitioner is absconder. She has been nominated in FIR of murder of her husband. The counsel for the Respondent No.4 has further informed that the police will submit challan before the concerned Judicial Magistrate in a couple of days.

The Petitioner is present in Court and after the death of her husband she has even attended Soyam of her husband in the family of in-laws. She is in contact with her in-laws even after the date of incident of fire. She had not attempted to abscond or runaway. Probably till date she is unaware of the lodging of FIR which has been produced by the learned counsel for the Respondent No.4 in Court today. The police after lodging of the FIR has not arrested the petitioner till date and the two police officers namely S.I. Abdul Sattar Chohan, P.S. Nazimabad and S.I. Raja Gul Tabraiz P.S. Pak Colony are also present before the Court. The husband of the petitioner died on 15.01.2014. The FIR was lodged on 6.2.2014 and the petitioner has been nominated in the said FIR. In the circumstances, this petition is converted into bail before arrest and she is admitted on bail subject to her furnishing personal bond in the sum of Rs.50,000/- Bail is granted on the ground that she is a woman with three children and she herself has attended the funeral of her husband whose death has been allegedly declared murder by her father-in-law after 20 days of the incident and she has been nominated. The other reason to admit the petitioner on bail is that the prosecution is also hesitant in arresting the petitioner. Since 06.2.2014, till date police has not made any serious effort to arrest her. The police officials present in Court have no explanation for the failure of police to arrest an accused nominated in murder case. However, she

is directed to make sure that she will always cooperate with the police in investigation.

The petitioner has informed that the house in which she was residing with the deceased husband has been locked and the Respondent No.4 has also placed his lock on the premises and therefore, she is unable to enter in the premises. Now the said premises is place of incident of offence of murder and the petitioner is nominated accused, therefore, petitioner cannot be given free access to the place of incident. However, since the petitioner and her children were residing in the said house and their belonging are lying there, the I.O of crime No.50/2014 is directed to ensure the protection of place of incident as long as he needs for the purpose of investigation. However, he shall give free access to the petitioner in his presence. She is allowed to visit the said house in presence of the I.O so that she may recover / remove the belonging of her children and herself from the said premises without disturbing the crime scene, lest it may have any adverse effect on the otherwise smooth investigation of the offence. Investigating officers should ensure that whatever belongings of petitioner and her children which are not needed for investigation should be allowed to be taken away by the petitioner. Investigating officers should make diary of entry of the petitioner into the premises and make inventory of anything she removes from there.

Petition stands disposed of, in the above terms.

J U D G E

Gohar PS