

Form No: HCJD/C-121

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**JUDICIAL DEPARTMENT**

**Criminal Misc. No. 152-B of 2022**

Namal Amjad

Versus

The State and another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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23.02.2022	Raja Ghaneem Aabir Khan, Advocate for the petitioner. Mr. Ghulam Mustafa, Advocate for respondent No.2. Mr. Muhammad Mujahid, learned State Counsel. Naveed, S.I. Police Station Sihala, Islamabad.
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Through the instant bail petition, the petitioner seeks bail after arrest in case FIR No. 358, dated 03.07.2021, offence under Section 302, 337-J, 379, 411, P.P.C, registered at Police Station Sihala, Islamabad.

02. It is alleged that father of the complainant died in hospital due to administering of poisonous substance by some unknown person, hence the instant FIR.

03. Learned Counsel for the petitioner / accused *inter alia* contends that the petitioner is not nominated in the FIR; no evidence is

available against her; she has been implicated in the case on the basis of a supplementary statement that too without any plausible reason / source; investigation in the case has been completed; the petitioner being female is entitled for grant of bail after arrest.

04. Conversely, learned State Counsel assisted by learned counsel for respondent No.2. / complainant has controverted the arguments advanced by learned Counsel for the petitioner / accused and has stated that sufficient evidence is available against the petitioner / accused; offences fall under the prohibitory clause of Section 497 Cr.P.C; she is also involved in an other case of similar nature; hence she is not entitled for grant of bail after arrest.

05. I have heard the arguments advanced by learned counsel for the petitioner, learned State Counsel, learned counsel for respondent No.2 / complainant and perused the record with their able assistance.

06. The petitioner is not nominated in the FIR; she has been implicated as an accused in

the case through supplementary statement of complainant recorded on 05.07.2021, but complainant has not mentioned any reason or source on the basis of which he has named the petitioner as an accused in the instant case.

07. Police has recorded the statements of two witnesses under section 161 Cr.P.C.; both the witnesses are not the eye-witnesses of the occurrence, rather are witnesses of circumstantial evidence.

08. As far as contention of learned State Counsel, that the petitioner is involved in another criminal case is concerned, it would suffice that mere involvement in other case would not disentitle her from the relief of bail if she otherwise succeeds in bringing her case within the meaning of further inquiry. Needful to add that liberty of a person is a precious right that has been guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. Hence in cases, where there is slight tilt towards grant of bail, the same needs to be preferred over letting one to confine in jail for an indefinite period in name of trial when conclusion thereof can competently impose

due punishment for such released person. Further, learned State Counsel has not brought on record any material that petitioner / accused has been convicted in any other case, hence, mere involvement in criminal case cannot be a ground to withhold the concession of bail in given circumstance. Reliance is placed upon the cases titled as **"Moundar and others V. The State" (PLD 1990 SC 934), "Babar Hussain V. State" (2020 SCMR 871), "Muhammad Rafique V. State" (1997 SCMR 412) "Muhammad Abid Farooq V. The State and another" (2015 P Cr. LJ 224) and "Jamal-ud-din alias Zubair Khan V. The State" (2012 SCMR 573).**

09. There is no direct evidence available against the petitioner; she has only been implicated in the case on the basis of supplementary statement of complainant. It has been held by the Hon'ble Supreme Court of Pakistan in case titled as **"Noor Muhammad V. The State" (2008 SCMR 1556)**, that:

*"Moreover, since name of petitioner and co-accused were not mentioned in the F.I.R. and was mentioned in the supplementary statement by complainant which fact also brings the case within the ambit of further inquiry. It was held by this Court in the case of Falak Sher alias Sheru v. The State 1995 SCMR 1350 that F.I.R. is the document which is entered into book maintained at the police station at the complaint of informant and brings the law into motion whereby police starts investigation of the case under section 156, Cr.P.C. Any statement or further statement of the first informant recorded during the investigation by police would neither be equipped with First Information Report nor read as part of it. Similarly it was held by this Court in the case of Khalid Javed and another v. The State 2003 SCMR 1419 that any statement or further statement of the first informant recorded during the investigation by the police would neither be equated with F.I.R. nor read as part of the same and the value of the supplementary statement, therefore, will be determined keeping in view the principles enunciated by the superior Courts in this behalf".*

Reliance is also placed on a case titled as **"Lal Marjan and another V. Islam Gul and others" (2021 SCMR 301).**

10. It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep the people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of bail after arrest granted to him, but no satisfactory reparation can be offered to an innocent woman for her unjustified incarceration at any stage of the case albeit her acquittal in the long run. Reliance is placed on a case titled as **"Manzoor and 4 others Vs. The State" (PLD 1972 SC 81).** Reliance is also placed on a case titled as **"Zaigham Ashraf Vs. The State and others" (2016 SCMR 18).**

11. Investigation in the case has been completed and the petitioner / accused being

female is no more required for the purpose of investigation. She is previously non-convict and is behind the bars for the last more than 05 months. Trial of the petitioner / accused has not seen any fruitful progress as yet, therefore, her further incarceration in jail would not serve any purpose.

12. A tentative assessment of record shows that present petitioner has made out a case of further inquiry.

13. In view of above, instant petition is **accepted** and the petitioner is admitted to bail subject to furnishing bail bonds in the sum of **Rs. 500,000/- (Five Hundred Thousand only)** with one surety in the like amount to the satisfaction of learned trial Court.

14. Needless to mention that, this is a tentative assessment which shall not affect the trial of case in any manner.

~~(TARIQ MEHMOOD JAHANGIRI)~~  
**JUDGE**