

Crl. Misc. No. 17119-B/2014

Umer Din

The State etc.

10.03.2015      Malik Saeed Hassan, Advocate for the petitioner.  
Mr. Zahoor ul Haq, Advocate for the complainant.  
Dr. M. Anwer Khan Gondal, APG with Rustam, ASI.

Umar Din, petitioner, seeks post arrest bail in case FIR No. 277 dated 08.10.2012 under Sections 302, 148, 149, 109 PPC registered at Police Station Chuchak, District Okara, on the statutory ground as has passed more than 2 years since his arrest and the trial is not nearing its conclusion.

2.      Learned counsel for the petitioner contends that petitioner is an ordinary criminal and has not migrated into an exceptional criminal and, therefore, he be treated as such. For all intents and purposes he is not a desperate and hardened criminal, therefore, he be granted post arrest bail on statutory ground.

3.      Conversely, learned counsel for the complainant submits that since the date of his arrest the charge has been framed on 02.01.2013 and the trial is in progress whereas the delay was occasioned on account of acts on behalf of petitioner. Places reliance

upon ***KHADIM HUSSAIN and another versus THE STATE*** (PLD 2012 Balochistan 179), ***AMIR BUX MACHI versus THE STATE*** (2013 YLR 2190) and ***GHULAM MUSTAFA versus THE STATE and another*** (2014 YKR 1560) and prays for dismissal.

4. Arguments heard. Record perused.

5. The post arrest bail on statutory ground is being sought by the father of the victim in an honor killing case. Petitioner stood nominated in the FIR as the one who was present at the time of occurrence. In other words, as per the record, the offence was committed in his present in his house and he being the head of the family at least remains inactive to avoid the offence. Before his eyes, at least her daughter was being mercilessly killed but he acts with desperation. Any father expected to be more careful and protective for the daughter instead of son.

6. Under section 497 Cr.P.C. a statutory right is earned by an accused person for his post arrest bail after the passage of period of 2 years continuously behind the bars in an offence punishable with death or imprisonment for life only if in the opinion of the Court he is not a hardened desperate and dangerous criminal or is an accused of an act of terrorism punishable with death or imprisonment for life. The question as to

whether petitioner is alleged to have committed the offence with an act and manner showing him to be hardened desperate and dangerous criminal needs to be discussed.

7. The three words “hardened” “desperate” or “dangerous” have different connotation of the petitioner falling in any three of categories will exclude from the entitlement of the grant of post arrest bail. The question arises as to whether killing ones own daughter or to facilitate killing ones own daughter is an act of desperate hardened or dangerous criminal? Obviously, it shows a state of mind under which a person becomes so ruthless and callous that he takes a life of another human being regardless of his blood relationship. In my humble understanding, the act of killing ones own daughter is an act of desperation on account of the fact that a daughter being physically infirm cannot offer required resistance to save her life. Besides, the father being the most powerful pillar supporting the protective shelter if crumbled to the ground annihilating their own daughters, God forbids, what will happen with our society. As this practice has been specifically prohibited at the very inception of Islam which was prevalent as pre-Islamic custom but unfortunately, it is painfully shocking that even today in the era of modern

technology they are being followed under the pretext of *Ghairat* or honor killing. In this era of woman emancipation and realization of women right courts are required to have a broader interpretation of the words “desperate hardened and dangerous” while dealing with the case of honor killing, with reference to Section 497(2) Cr.P.C. on statutory grounds. Here it would be expedient to reproduce the beautiful extracts of the observations made by the Hon’ble Supreme Court of Pakistan in case titled as **MUHAMMAD AKRAM KHAN versus THE STATE** (PLD 2001 SC 96).

*.....”Legally and morally speaking, no body has any right nor can anybody be allowed to take law in his own hand to take the life of anybody in the name of “Ghairat”. Neither the law of the land or religion permits so-called honour killing which amounts to murder (Qatl-i-Amd) simplicitor. Such iniquitous and vile act is violative of fundamental right as enshrined in Article 9 of the Constitution of Islamic Republic of Pakistan which provides that no person would be deprived of life or liberty except in accordance with law and any custom or usage in that respect is void under Article 8(1) of the Constitution”.....*

8. It is important to observe that in our society granting post-arrest bails in “honor killing” i.e. a violence against women will substantially increase such incidents, which in most of the cases is for gain the property, demanding the hand of a woman of choice,

settling the old scores and personal vendetta. Certainly, if such like act as committed by the petitioner is approved, it would lead to an anarchic situation in the society and lynching of women would become order of the day.

9. In the instant case, the girl was murdered just because she contracted marriage of her own choice, and no body shed even single tear or scream for helpless victim who bled to death in front of eyes of her own mother, brother and above all the father.

10. In this view of the matter, I do not find any reason to grant the post arrest bail on statutory ground as a result of which this petition having no merits is, therefore, dismissed.

**(ALI BAQAR NAJAFI)**  
**JUDGE**

Approved for reporting.

**JUDGE**

*\*Shahzad\**