

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Appln. No. S-199 of 2025

Applicant)	:	Muhammad Sijawal @ Sijawal s/o Derak, by caste Bullo, Through Mr. Atif Hussain Dharejo, Advocate
Complainant		Mai Manzooran Through Mr. Muhammad Rafiq Kalwar, Advocate
The State	:	Through Mr. Mansoor Ahmed Shaikh, D.P.G
Date of hearing		05-06-2025
Date of order		05-06-2025

ORDER

ALI HAIDER 'ADA', J.- Through this bail application, the applicant/accused Muhammad Sijawal @ Sijawal seeks post-arrest bail in Crime No. 81 of 2023, registered at Police Station B-Section, Ghotki, for offences punishable under Sections 302, 114, 147, 148, and 149 PPC. The FIR was lodged by the complainant, Mai Manzooran, on 02.10.2023, regarding an incident that allegedly took place on 01.10.2023. Prior to filing the instant application, the applicant had approached the learned Sessions Judge, Ghotki, who entrusted the matter to the learned Additional Sessions Judge-II, Mirpur Mathelo. However, the bail application was declined vide order dated 13.05.2024.

2. Brief facts of the prosecution case, as set forth in the FIR, are that on 01.10.2023, the complainant, Mai Manzooran, along with her family members, was present at her residence when, at about 09:00 a.m., the accused persons, namely (1) Azad @ Aajoo, (2) Shabeer @ Latoo, (3) Sijawal (present applicant), (4) Amjad, (5) Altaf, and (6) Mazhar, all armed with Kalashnikovs (K.Ks), arrived at the scene. The accused Sijawal is alleged to have pointed his weapon at the complainant party and instigated the co-accused to commit the murder of

Mst. Hameeda. Upon such instigation, accused Azad, Shabeer, Amjad, Altaf, and Mazhar opened fire on Mst. Hameeda, who, after sustaining multiple gunshot injuries, fell to the ground. On her cries, nearby persons gathered at the scene, which led the accused to flee. Mst. Hameeda was initially shifted to Taluka Hospital, Ghotki. Upon issuance of a referral letter from the concerned police station, she was transferred to Sukkur for further medical treatment. However, she succumbed to her injuries. Following her funeral, the FIR was registered by the complainant.

3. Learned counsel for the applicant/accused submits that the only allegation against the applicant is that of instigation and pointing of a weapon, which, even if taken at face value, renders the case one of further inquiry. He further contends that the principal accused, namely Azad and Shabeer, have already been granted pre-arrest bail by the learned trial Court vide order dated 28.03.2024. The role assigned to the present applicant is on a comparatively better footing than that of the said co-accused. Additionally, it is submitted that both Azad and Shabeer were subsequently let off by the investigating agency, which casts serious doubt on the prosecution's version. In these circumstances, the learned counsel prays for the grant of post-arrest bail.

4. On the other hand, learned counsel for the complainant opposes the bail and contends that the present applicant played an active role in instigating the principal accused to commit the offence. It is argued that the murder was committed on the instigation of the present applicant, who participated in the commission of the offence along with the other accused, and hence, he is not entitled to the concession of post-arrest bail.

5. Conversely, learned Deputy Prosecutor General submits that although the principal accused were let off by the police during investigation, the applicant is specifically nominated in the FIR with a clear role of instigation. The investigating officer has also opined against the applicant during the investigation. In view of such findings, the applicant appears to be prima facie involved in the commission of the offence and is therefore not entitled to the concession of post-arrest bail.

6. Heard learned counsel for the applicant, learned counsel for the complainant, and learned Deputy Prosecutor General. Perused the material available on record with due care and consideration.

7. Upon careful examination of the material available on record, it appears that the case pertains to the murder of the complainant's daughter allegedly at the hands of accused persons namely Azad, Shabeer, Amjad, Altaf, and Mazhar. The record reflects that accused Azad and Shabeer, who were named in the FIR with specific allegations of direct involvement in the offence, were subsequently placed in Column No.2 of the challan by the Investigating Officer, indicating their discharge from the case. On the basis of this finding, the learned trial Court granted bail to the said co-accused vide order dated 28.03.2024. In this context reliance is placed upon the case of *Abdul Rehman v. The State* (2023 SCMR 2081).

8. In this context, the present applicant stands on a better footing than the aforementioned co-accused. It is a well-recognized principle of criminal law that where co-accused are granted the concession of bail, then on the ground of consistency, the other co-accused is also entitled to similar relief. Reliance is placed upon the case of *Zeeshan vs the state and another* 2024 SCMR 1716.

9. So far as the delay in lodging of the F.I.R is concerned, the record reflects that there is a delay of one day in setting the law into motion. Admittedly, the incident occurred on 01-10-2023, whereas the F.I.R was lodged on 02-10-2023. The complainant attempted to explain the delay by asserting that the same was occasioned due to the performance of the funeral rites of the deceased. However, the contents of the F.I.R itself contradict this explanation. It specifically states that the complainant initially visited the police station to obtain a letter for medical treatment and then proceeded to the hospital for the necessary procedures. There is nothing on record to show that during this entire period she attempted to narrate the incident to the police or otherwise make any complaint. This unexplained delay in lodging the F.I.R creates the possibility of deliberation, consultation, of the events before formal proceedings were initiated. It is a settled principle of law that promptness in lodging the F.I.R is crucial in criminal cases, particularly in cases involving capital punishment. In this context, reliance is placed upon the case of *Mazhar Ali vs. The State* (2025 SCMR 318).

10. The allegation against the present applicant pertains to instigation in the commission of the offence of murder. However, the evidentiary basis for such allegation is yet to be substantiated through the process of recording evidence at trial. In support of this proposition, reliance is placed upon the case of *Abdul Khalique v. The State* (2023 PCr.LJ Note 21), wherein the Division Bench of this Court was pleased to grant post-arrest bail to the accused despite the allegation that he had instigated the principal offenders to commit murder.

11. For the foregoing reasons, the instant bail application is allowed. The applicant/accused is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand

only) and a Personal bond in the like amount, to the satisfaction of the learned Trial Court. It is, however, clarified that the observations made herein above are purely tentative in nature and shall not prejudice the learned Trial Court in any manner while deciding the case on merits at the trial stage.

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