

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No. S-604 of 2025

Applicant : Zakir son of Mushtaque Jatoi,  
Through Mr. Muhammad Hamza Burriro,  
Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

L.Rs of deceased Najeeban : Through Mr. Muhammad Ali Dayo, Advocate

Date of hearing : 21.08.2025

Date of order : 27.08.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Zakir seeks post arrest bail in a case bearing crime No. 29 of 2025 registered at Police Station Sangi, for offence under Sections 302 (Qatl-i-Amd), 311 (Fasad-fil-Arz), 120-B (Criminal Conspiracy), and 34 (Common Intention) of the Pakistan Penal Code.

2. The applicant seeks his release on bail pending trial, invoking various grounds of defense and asserting his innocence in what appears to be yet another tragic manifestation of the deplorable practice of so-called "honor" killing that continues to plague our society, particularly in the province of Sindh.

3. The gravity of the charges and the socio-legal implications of the alleged offense compel this Court to examine not merely the technical aspects of bail jurisprudence, but also the broader constitutional and human rights dimensions that such cases invariably present. The case at hand epitomizes the disturbing pattern of violence perpetrated against women under the pretext of family "honor," a practice that stands condemned by every civilized legal system, religious teaching, and moral principle known to humanity.

4. The prosecution's case, as unfolded through the FIR and subsequent investigation, presents a harrowing account of premeditated violence rooted in the abhorrent practice of Karo-Kari. According to the complainant ASI Manzoor Ahmed, on the fateful night of 24th April 2025, at about 0045 hours, a police patrol team received credible intelligence regarding a plot to murder one Mst. Najeeban w/o Asadullah Jatoi. The information suggested that the present applicant, Zakir Jatoi, along with his accomplices, had leveled false allegations of "Karap" (adultery/impropriety) against the said lady with one Saleem Jatoi, and was planning her elimination under the guise of restoring family "honor."

5. Acting upon this intelligence, the police team proceeded to Village Gazi Khan Jatoi, where they witnessed a scene of unspeakable brutality. The complainant party observed the applicant, armed with a pistol, along with an unidentified co-accused, confronting the victim. The applicant was heard declaring the victim as "*Kari*" before opening fire directly upon her person. The victim sustained multiple gunshot wounds to various parts of her body, including her breast, neck, shoulder, and thigh, as subsequently confirmed by the post-mortem examination.

6. Of paramount significance is the dying declaration made by the victim, Mst. Najeeban, who, before succumbing to her injuries during transportation to the hospital, specifically identified the applicant Zakir Jatoi as her assailant and corroborated the allegation that false accusations of impropriety had been leveled against her. This dying declaration, made under the shadow of impending death, carries substantial evidentiary weight under the established principles of criminal jurisprudence.

7. The investigation further revealed that the pistol used in the commission of the crime was recovered on the "pointation" (identification) of the applicant, thereby establishing a direct link between the accused and the instrument of murder. This recovery, coupled with the ocular evidence of police witnesses who observed the shooting, creates a formidable evidentiary foundation against the applicant. The post-mortem examination conducted by the concerned Woman Medico Legal Officer revealed the extent of the victim's injuries, confirming multiple gunshot wounds that were consistent with the prosecution's version of events. The medical evidence corroborates the testimonial evidence and provides scientific validation to the prosecution's case.

8. Mr. Buriro, learned counsel for the applicant has advanced several grounds in support of the bail application. It is contended that the applicant has been falsely implicated by interested police officials who harbor malice against him. The counsel argues that all prosecution witnesses are subordinate police personnel under the command of the SHO and Investigation Officer, thereby rendering their testimony inherently unreliable and motivated. The defense posits that the actual offense was committed during the course of a dacoity (armed robbery), not by the applicant. According to this version, unknown criminals had come to steal cattle when the deceased offered resistance, leading to her murder. Counsel emphasizes the complete absence of independent or impartial eyewitnesses to the alleged occurrence, arguing that reliance solely on police

testimony creates reasonable doubt about the prosecution's version. It is highlighted that when the applicant was arrested on 30th April 2025, no incriminating material was recovered from his person, and he was not apprehended from the scene of the crime. Significantly, learned counsel relies upon proceedings under Section 22-A Cr.P.C., wherein independent witnesses and legal heirs of the deceased approached the Sessions Judge with an application that was subsequently allowed. The Investigation Officer recorded statements of witnesses namely Asadullah, Abdullah, and Ashfaque Ahmed, who provided a version contradictory to the prosecution's case. The defense argues that the case presents two conflicting versions, that of the complainant police officials and that of the legal heirs and independent witnesses, thereby creating sufficient doubt to warrant further inquiry under Section 497(2) Cr.P.C., which permits bail when the prosecution case requires further investigation. A crucial aspect of the present application relates to the affidavits filed by the legal heirs of the deceased, Mst. Najeeban, wherein they have categorically stated that the applicant has been falsely involved in the case and that the actual offense was committed during a dacoity. These legal heirs have expressed no objection to the grant of bail to the applicant.

9. The learned Deputy Prosecutor General has vehemently opposed the grant of bail, presenting compelling arguments that demonstrate the serious nature of the alleged offense and the strength of the prosecution's case. The learned DPG has emphasized the following crucial aspects of the prosecution case. The applicant is specifically nominated in the FIR with a clear role attributed to him in the commission of the heinous crime. The prosecution possesses direct eyewitness testimony from police officials who allegedly observed the occurrence. The victim's dying declaration specifically identifying the applicant as her killer carries immense legal significance and probative value. The recovery of the murder weapon on the applicant's pointation establishes a direct nexus between the accused and the crime. The post-mortem report fully supports the prosecution's version regarding the cause and manner of death. The learned DPG has particularly emphasized the heinous nature of honor killings and their devastating impact on society, arguing that such crimes warrant the strictest judicial scrutiny and cannot be treated leniently under any circumstances.

10. The record reflects that the applicant had earlier filed Criminal Bail Application No. 1036 of 2025 before the Sessions Judge Sukkur, which was transferred to the Additional Sessions Judge Pano Akil and was declined vide order dated 3rd July 2025. Even during those proceedings, the legal heirs had filed

similar affidavits supporting the applicant's innocence. This Court is compelled to observe with profound anguish and concern that incidents of *Karo-Kari* and so-called "honor" killings have reached epidemic proportions in the province of Sindh. Judicial experience reveals a disturbing pattern wherein women are branded as "*Kari*" on the basis of mere suspicion, false allegations, or fabricated evidence, and are subsequently subjected to the most brutal forms of violence by their own family members who claim to act in the name of "honor."

11. What makes these crimes particularly reprehensible is the systematic nature of the violence and the subsequent manipulation of the legal system. Time and again, this Court has witnessed cases where, after the commission of such heinous acts, legal heirs, often the very persons who orchestrated or participated in the crime, file affidavits claiming the innocence of the accused or attributing the murder to unknown persons or alternative causes such as robbery or dacoity.

12. The Constitution of the Islamic Republic of Pakistan, in its Article 9, guarantees that "no person shall be deprived of life or liberty save in accordance with law." This fundamental right is not conditional upon gender, social status, or adherence to particular cultural norms. The right to life of women is as absolute and inviolable as that of any other citizen. As observed by the Honorable Supreme Court in the landmark case of *Muhammad Akram Khan v. The State* (PLD 2001 SC 96):

*"Neither the law of the land nor religion permits so-called honour killing which amounts to murder (Qatl-i-Amd) simpliciter. 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."*

13. Article 8(1) of the Constitution explicitly declares that "any custom or usage inconsistent with the rights conferred by this Chapter shall be void." The practice of honor killing, regardless of its cultural or traditional justifications, stands wholly inconsistent with constitutional guarantees and is therefore legally void and morally reprehensible. The Parliament of Pakistan, recognizing the gravity of honor-related violence, enacted the Criminal Law (Amendment) (Offences in the Name or on Pretext of Honour) Act, 2016, which introduced significant amendments to address the loopholes that previously allowed perpetrators to escape justice through familial pardons.

14. Section 311 of the Pakistan Penal Code now emphatically states:

*"Where all the wali do not waive or compound the right of qisas, or if the principle of fasad-fil-arz is attracted, the Court may, having regard to the facts and circumstances of the case, punish an offender against whom the right of qisas has been waived or compounded with death or imprisonment for life... Provided that if the offence has been committed in the name or on the pretext of honour, the punishment shall be imprisonment for life."*

15. The concept of Fasad-fil-Arz, as defined in Section 299 of the PPC, includes several aggravating factors, most significantly:

*"...if the offence has been committed in the name or on the pretext of honor"*

16. This definition makes it explicitly clear that honor killings automatically attract the principle of Fasad-fil-Arz, thereby empowering the State to prosecute such crimes even when legal heirs attempt to compromise or pardon the offenders. The 2016 amendments have rendered honor killings non-compoundable, meaning thereby private pardons or compromises cannot prevent the State from pursuing prosecution and securing convictions. This represents a paradigmatic shift from treating murder as a private offense to recognizing it as a crime against the State and society at large.

17. This Court categorically holds that affidavits of "no objection" filed by legal heirs in honor killing cases are legally inefficacious and cannot form the basis for granting bail or acquittal. Such documents often represent either:

- Coercion and intimidation of family members
- Active complicity in the original crime
- Misguided attempts to protect family members from prosecution
- Manipulation by the actual perpetrators.

18. The State's interest in prosecuting honor killings transcends private family disputes and individual pardons. These crimes represent attacks on the very fabric of civilized society and constitutional governance. As observed by the Lahore High Court in a recent judgment;

*"The legislature had amended the law to curb an ignominious practice in society, particularly following the promulgation of Qisas and Diyat Ordinance 2000, that after doing away with a woman, either a wife, mother, daughter or sister on the pretext of honour, the real perpetrators would escape punishment by getting a pardon from the legal heirs of the victims."*

19. Section 497(1) Cr.P.C. establishes a presumption against bail when there appear reasonable grounds for believing that the accused has committed an offense punishable with death or imprisonment for life. Honor killings, falling under Section 302 PPC, clearly attract this prohibitory clause.

The Supreme Court has consistently held that "reasonable grounds" require more than mere suspicion, they demand tangible evidence that, if left un rebutted, would lead to an inference of guilt. In the present case, the combination of dying declaration, weapon recovery, eyewitness testimony, and medical evidence clearly establishes such reasonable grounds. While the law permits bail even in cases falling within the prohibitory clause if "extraordinary circumstances" exist, courts have interpreted this exception very restrictively, particularly in honor killing cases. The mere filing of affidavits by legal heirs does not constitute extraordinary circumstances.

20. The dying declaration of Mst. Najeeban carries immense probative value under Pakistani law. As established by superior courts, dying declarations are admissible evidence based on the principle that "a person facing imminent death is unlikely to lie". The victim's specific identification of the applicant, made under circumstances of extreme duress and approaching death, creates a formidable piece of evidence against him. The recovery of the pistol on the applicant's pointation represents direct physical evidence linking him to the crime. The courts have consistently held that recovery of crime weapons on the accused's identification constitutes strong evidence of guilt.

21. While the defense challenges the credibility of police witnesses, criminal jurisprudence does not automatically discredit police testimony merely because of official status. The credibility of witnesses is a matter for trial determination, not bail consideration.

22. This Court finds it necessary to address the fundamental misconception underlying the practice of honor killings. There is no "honor" in the murder of innocent women. The concept of family honor that is invoked to justify these crimes is a patriarchal construct designed to control women's autonomy and perpetuate gender-based violence. True honor lies in protecting the vulnerable, upholding justice, and respecting human dignity. A society that tolerates the murder of women in the name of honor is a society that has lost its moral compass and abandoned its constitutional values. As an Islamic Republic, Pakistan must be

guided by the true teachings of Islam, which unequivocally condemn the taking of innocent life. The Holy Quran states in Surah An-Nisa, Ayat 93:

*"And whoever kills a believer intentionally, his recompense is Hell to abide therein, and the Wrath and Curse of Allah are upon him, and a great punishment is prepared for him."*

23. Islam elevates the status of women and grants them fundamental rights that cannot be violated under any pretext. The practice of honor killing finds no sanction in Islamic law and represents a gross distortion of religious principles. Honor killings have devastating consequences that extend far beyond individual victims. These crimes reinforce harmful stereotypes about women's roles and status in society. When private individuals take law into their own hands, it undermines the entire legal system. Pakistan's reputation as a civilized nation suffers when such practice are tolerated or inadequately addressed. As a signatory to various international human rights instruments, Pakistan has committed to eliminating gender-based violence.

24. The judiciary bears a special responsibility in addressing honor killings. Courts must zealously protect the fundamental rights guaranteed by the Constitution, particularly for vulnerable groups like women. Judicial decisions must send a clear message that honor killings will not be tolerated and will be met with the full force of the law. Through principled judgments, courts can contribute to changing social attitudes and promoting gender equality. Applying the established legal principles to the facts of the present case, this Court finds that the prosecution has presented a prima facie case against the applicant that satisfies the "reasonable grounds" standard under Section 497 Cr.P.C.

- Specific nomination in the FIR with clear role attribution
- Dying declaration identifying the applicant as the killer
- Recovery of murder weapon on applicant's pointation
- Eyewitness testimony from police officials
- Medical evidence corroborating the prosecution version
- Motive established through the honor killing angle

25. While the defense challenges various aspects of the prosecution case, such challenges are matters for trial determination rather than bail consideration. The cumulative effect of the evidence creates a strong prima facie case against the applicant. The defense's contention of false implication by police officials lacks credibility given, i.e. the presence of multiple forms of corroborative evidence; the dying declaration of the victim; the recovery of the murder weapon; the

consistency of the prosecution narrative. The alternative theory that the murder occurred during a dacoity is not supported by the specific targeting of the victim, the honor killing motive established through evidence, the lack of any evidence of robbery or theft and the inconsistency with the dying declaration

26. As discussed extensively above, such affidavits carry no legal weight in honor killing cases and cannot override the State's interest in prosecution. The present case clearly falls within the prohibitory clause of Section 497(1) Cr.P.C. because the charges include Section 302 (murder) and Section 311 (Fasad-fil-Arz), both of which carry life imprisonment or death penalty. The evidence establishes reasonable grounds for believing that the applicant committed the offense. No circumstances exist that would justify overriding the presumption against bail.

27. This Court is acutely aware that its decision in this case will have implications beyond the immediate parties. Granting bail in a case with such strong evidence of honor killing would send a wrong message to society and potentially encourage similar crimes. The deterrent effect of strict judicial approach is essential for preventing future honor killings, protecting potential victims, upholding the rule of law and maintaining public confidence in the judicial system.

28. The case presents an opportunity for this Court to reaffirm its commitment to protecting women's rights and ensuring that gender-based violence is met with appropriate judicial response. The grant of bail in such circumstances would be tantamount to judicial endorsement of the very practices that the law seeks to eliminate. Pakistan's international commitments require the State to exercise due diligence in preventing, investigating, and punishing gender-based violence. Granting bail in honor killing cases with strong evidence would violate these obligations and damage Pakistan's international standing.

29. After exhaustive consideration of the facts, evidence, legal precedents, and policy implications, this Court reaches the conclusions that the prosecution has established a strong prima facie case against the applicant through multiple forms of reliable evidence. The case falls squarely within the prohibitory clause of Section 497(1) Cr.P.C., creating a presumption against bail. No circumstances exist that would justify overriding the presumption against bail. The affidavits filed by legal heirs carry no legal weight and cannot influence the bail determination. The grant of bail would undermine legislative intent and social policy against honor killings.



30. In view of the comprehensive analysis undertaken above, and keeping in mind the constitutional guarantees, legislative enactments, judicial precedents, and social policy considerations, this Court finds absolutely no merit in the present bail application. This Court takes opportunity to strongly condemn the practice of honor killings in all its forms. Such practices have no place in a civilized society and will not be tolerated by this Court under any circumstances. This decision should serve as a clear message to society that honor killings will be met with the full force of the law, no cultural or traditional justification will be accepted for such crimes, the judiciary stands firmly committed to protecting women's rights and legal heirs cannot manipulate the justice system through false affidavits. The learned Trial Court is hereby directed to conduct the trial expeditiously and conclude proceedings within four (4) months from the date of this order, barring exceptional circumstances. Ensure that the provisions of Section 311 PPC (Fasad-fil-Arz) are properly applied if the accused is found guilty. Take all necessary measures to protect witnesses and ensure the integrity of evidence. This Court concludes with the fervent hope that this order will contribute to the ongoing struggle against gender-based violence and honor killings in Pakistan. The protection of women's rights is not merely a legal obligation but a moral imperative that defines the character of our society. The judiciary, as the guardian of constitutional rights, must continue to play its role in ensuring that no woman in Pakistan lives under the shadow of violence or fear. Only through sustained judicial vigilance and unwavering commitment to justice can we hope to eliminate the scourge of honor killings from our society. Accordingly, bail application stands dismissed.

**J U D G E**