

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 646 of 2025.

Applicant : Zafar Iqbal son of Fazal Haroon
Through Mr. Ajab Khan Khattak, advocate

Complainant : Through Mr. Uzair A.K Ghouri, advocate.
State : Through Ms. Rahat Ehsan, Addl. P.G Sindh

Criminal Bail Application No. 806 of 2025

Applicant : Sher Rosham Khan @ Soraj
Through Ms. Seema Molvi, advocate

Complainant : Through Mr. Ajab Khan Khattak, advocate.
State : Through Ms. Rahat Ehsan, Addl. P.G Sindh

Date of hearing : 15.05.2025

Date of order : 30.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J.- Through this single order, I intend to decide the above-captioned bail applications for post arrest bail filed by applicants Zafar Iqbal and Sher Rosham Khan alias Sooraj, in cases bearing crime Nos. 44 and 45 of 2025, respectively, registered at Police Station SITE-A, Karachi, arising out of the same incident, alleged to have occurred on 27.01.2025 at or around 1445 hours, involving a violent brawl and exchange of fire between two rival groups.

2. According to prosecution theory as set forth in FIR No. 44/2025, are that complainant Murad Khan reported that on 27.01.2025, his younger brother Fajar-ul-Islam, aged about 20/21 years, was brought home in an injured state and later succumbed to firearm injuries at Abbasi Shaheed Hospital. It was alleged that the deceased had a dispute with one Noman (identity incomplete), a local chicken vendor, and during a confrontation near Khyber Market, Metroville, Noman and his companions, armed with pistols, opened fire upon Fajar-ul-Islam, resulting in his fatal injuries.

3. The prosecution theory as per FIR No. 45/2025, complainant Usman Ghani, injured during the incident, narrated from the ICU of Civil Hospital, Karachi, that on the same date and time i.e. 27.01.2025 at about 1445 hours, he was called by his brother Noman to assist him during a quarrel. Upon reaching the spot, the complainant found Sher Rosham Khan alias Sooraj and his companions already engaged in a physical confrontation. During the altercation, Sher Rosham

Khan allegedly took out a pistol and directly fired at the complainant, hitting him on the face, causing grievous and life-threatening injuries.

4, Learned counsel for the applicant Zafar Iqbal contended that the applicant is not named in the FIR and his implication is based on supplementary statements recorded at a later stage. He argued that no specific role has been assigned to the applicant in causing the death of the deceased. He argued that he was arrested allegedly empty-handed and there is no direct evidence of his participation. He further argued that no identification parade was held and the delay in recording statements under Section 161 Cr.P.C indicates manipulation. He further contended that Case falls within the ambit of Section 497(2) Cr.P.C due to doubtful involvement. He lastly prayed that bail of accused may be granted.

5. Learned counsel for applicant Sher Rosham Khan alias Sooraj argued that the present FIR is a counter version to FIR No.44/2025 lodged by the rival party, and is a result of enmity and cross-claims. He argued that the complainant concealed the presence and role of the injured and the deceased in initiating the incident. He argued that the injury attributed to the applicant is the result of a sudden brawl with no premeditated intention. The prosecution has failed to establish common intention and his case calls for further inquiry under Section 497(2) Cr.P.C.

6. Learned Assistant Prosecutor General opposed both bail applications and submitted that, both applicants were arrested on the same day of the incident i.e. 28.01.2025 and were found in possession of 9mm pistols. The forensic reports confirm that the weapons recovered from both accused matched the crime empties secured from the scene by the Crime Scene Unit (CSU). FIR No.44/2025 involves the murder of a young man, while FIR No.45/2025 pertains to grievous injuries sustained by the complainant, both offences being non-bailable and grave in nature. The applicants were not only present at the spot but were active participants in the violence and their involvement is corroborated by forensic and ocular evidence.

7. Learned counsel for complainant(s) argued that the version of both complainants is supported by medical and forensic evidence. There is no delay in lodging FIRs and the injuries and death confirm active usage of firearms by both accused. The grounds raised by the applicants pertain to deep appreciation of evidence which is impermissible at bail stage. The applicants have not been falsely implicated and granting bail would amount to rewarding the perpetrators of armed violence.

8. After hearing the learned counsel for the parties and examining the material available on record, it is evident that both FIRs arise out of the same occurrence involving an exchange of fire between two rival groups. Both Zafar Iqbal and Sher Rosham Khan were arrested on the same day of incident i.e. 28.01.2025, but from different places. From their possession, 9mm pistols were recovered, which, as per forensic reports, matched the crime empties secured from the spot by the CSU team.

9. The gravity of the offence in FIR No.44/2025 is underscored by the death of a young chap, while in FIR No.45/2025, another young man received firearm injuries on his face, indicating intention to cause fatal harm. The applicants are not only named or implicated during investigation, but the recovery of matched weapons directly links them to the offence.

10. The discrepancies or delay in recording statements under Section 161 Cr.P.C, or the non-holding of identification parade, are issues requiring deeper appreciation of evidence, which is not permissible at the bail stage. The offences are non-bailable, serious and carry heavy punishment, and both applicants appear to have actively participated in the commission of these offences. Accordingly, no case for grant of bail is made out at this stage. Resultantly, both bail applications, i.e., Criminal Bail Application No.646/2025 (Zafar Iqbal) and Criminal Bail Application No.806/2025 (Sher Rosham Khan alias Sooraj), are hereby dismissed.

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