

## IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No. S-23 of 2025

Applicant : Faiz Muhamamd son of Imdad Khuhwar,  
Through Mr. Habibullah Ghouri, Advocate

Complainant : Through Mr. Ahmed Bux Abro, advocate.

The State : Through Mr. Nazeer Ahmed Bhangwar, DPG

Date of hearing : 24-07-2025

Date of order : 30-07-2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Faiz Muhammad Khuhwar, seeks post arrest bail in a case bearing crime No. 03/2024 registered at P.S. Mahi Makol for offences punishable under Sections 302, 114, 337-A(I), 337-F(I), 147, and 149 of PPC.

2. Briefly, the prosecution's case, as per FIR lodged by Mst. Zeena Khatoon on March 11, 2024 is that on March 8, 2024, at about 1445 hours, the applicant along with other co-accused formed an unlawful assembly. It is alleged that upon the instigation of co-accused Abid Ali, the applicant Faiz Muhammad caused a danda blow injury to the head of the complainant's brother Muhammad Rafique, who later succumbed to his injuries on March 10, 2024, at Karachi. Other co-accused are also alleged to have inflicted injuries and issued threats.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated. He primarily argued that there was an inordinate delay of three days in lodging the FIR, which casts doubt on the prosecution's story and suggests consultation and deliberation, leading to potential false implication. Furthermore, learned counsel asserted that no Roznamcha entry regarding the incident exists, implying a lack of immediate official record. He also pointed out that co-accused Abid Ali had already been granted bail by the learned Additional Sessions Judge-I, Kamber, on May 7, 2024, and therefore, the principle of consistency apply to the applicant's case, stating that no useful purpose would be served in cancelling bail if similarly placed accused are already on bail.

4. Conversely, the learned DPG for the State, duly assisted by the learned counsel for the complainant, vehemently opposed the grant of bail. The learned counsel for the complainant specifically

rebutted the argument regarding the delay in the FIR, explaining that the deceased was initially shifted to Karachi for medical treatment, where he remained under treatment and unfortunately died on March 10, 2024. This, according to the prosecution, adequately explains the three days delay. In this regard, it was submitted that mere delay in the registration of an FIR is not always fatal, especially when a plausible explanation is provided. The learned counsel for the complainant also controverted the assertion regarding the absence of a Roznamcha entry, submitting that such a plea is untenable. Regarding the bail granted to co-accused Abid Ali, it was argued that Abid Ali's case is altogether different to that of the present applicant, as he was assigned a separate role (instigation) rather than a direct role in inflicting the fatal injury. The learned DPG further highlighted that the applicant was arrested on March 18, 2024, and the recovery of the 'danda' (weapon of offence) was effected on March 24, 2024, which further connects the applicant to the alleged crime. Moreover, it was stressed that the medical evidence is supportive of the ocular account, thus corroborating the prosecution's version.

5. A tentative assessment of the material on record reveals that the applicant Faiz Muhammad, is prima facie connected with the alleged offence. The FIR attributes a specific role to him i.e. inflicting the fatal danda blow to the deceased. The explanation offered by the prosecution regarding the delay in lodging the FIR pertaining to the deceased's medical treatment in Karachi and subsequent demise, appears to be plausible at this juncture. This explanation squarely falls within the principles laid down in the cited case laws, where a delay, if adequately explained and without allegations of substitution or concoction is not fatal. The reasoning in *Mian Muhammad Nawaz Sharif Vs. The State* (PLD 2002 Karachi 152) also supports the view that where a plausible explanation exists, and the prosecution has presented credible evidence, the delay does not automatically render the FIR false. The argument concerning the absence of a Roznamcha entry is also found to be unconvincing and does not, at this initial stage, undermine the prosecution's case. Furthermore, the contention regarding the rule of consistency, in light of co-accused Abid Ali's bail, does not hold sway as the role assigned to Abid Ali (instigation) is distinct from the direct and fatal blow attributed to the present applicant. Needless to say, role of present accused is distinguishable from co-accused Abid Ali, therefore rule of consistency does not apply. Reliance is placed on case of *Muhammad Zeeshan @ Ali vs. The State* (2020 P.Cr.L.J 976). The recovery of the Danda after the applicant's arrest and the corroboration provided by the medical evidence with

the ocular account further strengthen the prosecution's prima facie case.

6. While the guilt or innocence of the accused will ultimately be determined after a full-fledged trial, at this stage, there are reasonable grounds to believe that the applicant has committed a non-bailable offence falling within the prohibitory clause of Section 497 Cr.P.C. Though this Court is mindful of the fact that there seems some delay in the conclusion of the trial, but it does not mean to grant bail in the offences having capital punishment.

7. In view of the above observations, which are tentative in nature and shall not influence the outcome of the trial, the instant bail application is hereby dismissed. However, the learned trial court is directed to conclude the trial preferably within three months from the date of this order.

**J U D G E**

Asghar Altaf/P.A