

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Crl. Bail Application No.S-100 of 2024

Applicant: Moula Bux son of Reham Ali,
Through Mr. Asif Chaudhry, Advocate.

Respondent: The State.
Through Mr. Dhani Bakhsh Mari, Assistant P.G Sindh.

Complainant: Ghafoor Khan son of Adam Khan.

Date of hearing: 19.08.2025

Date of order: 19.08.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicant/accused seeks pre-arrest bail in Crime No.134/2018 for offence under sections 302, 114, 506(ii) and 34 P.P.C registered at PS Digri, after his bail plea has been declined by the learned Additional Sessions Judge-I, Mirpurkhas vide order dated 14.05.2024.

2. The details and particulars of the F.I.R are already available in bail application and the F.I.R, as such, need not to reproduce the same hereunder.

3. Per learned counsel, the applicant/accused is innocent and has been falsely implicated in this case by the complainant. The role assigned to the applicant is only that of instigation. He submits that the main accused namely Wazeer Ali has already been convicted whereas the applicant remained fugitive from law. He further submits that no overt act has been attributed to the applicant who was merely present at the place of incident. Lastly, he prayed for confirmation of bail.

4. On the other hand, learned A.P.G. has vehemently opposed the grant of bail to the applicant/accused and submits that this FIR was registered in the year 2018 wherein three brothers were nominated. One of them namely Wazeer Ali has been convicted while the applicant has remained fugitive from law for about seven years. He further submits that the applicant was residing with the

main accused and despite having knowledge of the case he did not surrender before the trial court. Mr. Ramesh Kumar, Advocate holds brief for Mr. Adnan Khurram Meo, Advocate for the complainant and states that he could not appear due to the death of a relative.

5. Heard and perused.

6. From perusal of record, it transpires that all three brothers were present at the place of occurrence and, acting with common object and common intention, launched an attack upon the complainant party, as a consequence of which one person, namely Bakhtiar, lost his life. Upon registration of the FIR, investigation ensued, during which the applicant, Moula Bux, deliberately absented himself, fled from the scene of occurrence, and remained a fugitive from law for a period of approximately seven years. It is a settled principle that a fugitive from law forfeits certain rights otherwise available to him under procedural as well as substantive law. However, it is equally well-settled that the ground of abscondence alone may not constitute sufficient basis for refusal of bail, particularly where the accused was not aware of the pendency of criminal proceedings against him before any competent court of law. From the contents of the FIR, it prima facie appears that three brothers were implicated in this case for the murder of Bakhtiar, wherein the brother of the present applicant, namely Wazeer Ali, stood convicted, and subsequently surrendered before the learned trial Court.

7. At this bail stage, only a tentative assessment is to be made for the grant of bail. Sufficient material is available to connect the applicant/accused with the commission of offence and no mala fide or ill-will has been attributed to the complainant by the applicant. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan **[2019 SCMR 1129]** wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a

petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

8. Learned counsel for the applicant/accused has failed to make out the case for grant of bail. Accordingly, the bail application filed on behalf of the applicant/accused stands **dismissed**. The interim bail granted to the applicant/accused vide order dated **03.06.2024** is hereby **recalled**.

9. The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

Faisal