

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
Cr. Bail Appln. No. S-864 of 2024

Applicants : 1. Piyas Ali s/o Azizullah  
2. Sain Bux s/o Rajib  
3. Mst. Shahzadi w/o Azizullah  
4. Saeed Khan s/o Ghulam Shabir  
5. Zakir Hussain s/o Dadan  
All by caste Mangnenjo  
Through M/s Quban Ali Malano, Israr Ahmed Shah, Mujeeb-ur-Rehman Malano, and Naimat Ali Shah, Advocates

Complainant : Mst. Kalsoom, through Mr. Nadeem Ahmed Malik, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Dated of Hearing : 22.08.2025  
Dated of order : 22.08.2025

**ORDER**

**KHALID HUSSAIN SHAHANI, J-** The above named applicants seek pre-arrest bail in a case bearing crime No.70/2024, for offences u/s 302, 337-J, 147, 148 & 149 PPC registered at Police Station Sobhoderi, District Khairpur.

2. The facts, as narrated by the complainant Mst. Kalsoom, reveal that on 05.09.2023 at about 3:00 a.m., while she was sleeping alongside her mother-in-law, brother-in-law, and relative on separate cots, the applicants allegedly entered armed with weapons. It is alleged that accused Sain Bux restrained Mst. Nazeeran, Piyas Ali inflicted lathi blows to her mouth, Mst. Shahzadi administered poison, and Saeed Khan and Zakir Ali threatened the complainant's family to relinquish their agricultural property. The accused are said to have fled after the incident. The complainant took Mst. Nazeeran first to the police station for a referral and then towards the hospital; however, she expired on the way. Notably, the FIR was lodged on Court's orders, with an unexplained delay of nearly ten months.

3. Learned counsel for the applicants contended that the delay in lodging the FIR, which remains unexplained, is fatal to the prosecution case

and attracts the principle laid down by the Hon'ble Supreme Court of Pakistan, that such unexplained delay casts serious doubt upon the veracity of the prosecution's narrative and opens the possibility of deliberation and consultation to fabricate a version. He relied upon reported case law *PLJ 1995 SC 1 (Mehmood Ahmed v. State)*, *1995 SCMR 127*, and *PLJ 1975 Cr.C. (Lah.) 107*, wherein it is consistently held that unexplained delay provides sufficient opportunity for deliberation and implies the possibility of afterthought in implicating the accused. The law also holds, as in *1982 FSC 246 (Azmat Khan)*, that delay renders the prosecution story doubtful when not properly explained. The present case, where the FIR saw a lapse of almost ten months without plausible explanation, squarely falls under this principle.

4. Counsel argued further that all witnesses cited in the FIR are closely related to the complainant and interested, thus their testimony must be viewed with caution as per Pakistani law and the guidance laid down in precedent such as *2020 SCMR 857 and 1991 SCMR 111 (Muhammad Nawaz v. State)*, wherein the Supreme Court emphasized that interested and related witnesses, especially where admitted enmity or motive to falsely implicate exists, require independent corroboration to inspire confidence in the prosecution's case.

5. It was also contended on behalf of the applicants that the medical evidence does not directly connect the accused to the commission of the offence. The postmortem does not reveal any visible marks of injury. While the final laboratory reports determined the presence of barbiturate poison in the viscera, there is no direct evidence showing that the applicants administered the alleged poison or that an overdose sufficient to cause death was delivered. Barbiturates, being central nervous system depressants, are only fatal in high quantities or in combination with other depressants, as recognized in standard toxicological literature. The Supreme Court holds in

multiple cases, including 2023 LHC 6463, that medical evidence alone, especially when not unequivocally supportive of the prosecution's case, cannot form the sole basis for denial of bail where doubt exists.

6. Learned Deputy Prosecutor General, after examining the material and arguments, did not oppose confirmation of bail and considered the matter to be one of further inquiry. The learned counsel for the complainant, however, opposed bail on the grounds that the applicants are specifically nominated and medical reports indicate poisoning, thus sufficient material exists to connect them with the offence.

7. After hearing learned counsel for the parties and examining the record, it is evident that the delay of nearly ten months in lodging the FIR is striking and unexplained; as such, it seriously impairs the credibility of the prosecution's case and falls afoul of the well-settled jurisprudence that unexplained delay is fatal and creates doubt regarding fabrication or afterthought. All cited witnesses are interested and closely related, with admitted enmity over landed property, making the possibility of false implication pronounced and bringing the case within the ambit of further inquiry as contemplated by Section 497(2) Cr.P.C. Further, the medical evidence, while confirming poisoning, does not establish administration of lethal dose nor directly implicate any particular accused; there is no independent witness to corroborate the complainant's version.

8. The Apex courts pronouncements such as *2020 SCMR 857*, *1991 SCMR 111*, *PLJ 1995 SC 1*, and *1995 SCMR 127* reinforce that where the prosecution case is fraught with doubts and delay, and the evidence is entirely circumstantial or interested, the benefit must be afforded to the accused even at the bail stage. The Supreme Court in *1978 P.Cr.LJ 150* and *PLD 1992 SC 211* has repeatedly held that the benefit of doubt at any stage, especially in bail proceedings, should go to the accused.

9. Accordingly, in the present case, with unexplained delay in FIR, absence of independent evidence, admitted enmity and weak medical corroboration, the applicants have succeeded in creating sufficient doubt in the prosecution's case warranting further inquiry under Section 497(2) Cr.P.C. The interim pre-arrest bail earlier granted on 21.11.2024 is confirmed on the same terms and conditions.

10. It is clarified that the observations made herein are of tentative nature for bail purposes and do not reflect any opinion on the merits of the case, which shall be determined by the trial court independently upon appreciation of the evidence in accordance with law.

**J U D G E**