

IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

Criminal Bail Application No.S-844 of 2025

Applicants : Attur son of Muhammad Rafique,
Dhani Bux son of Karim Bux, Raheem
Bux son of Kareem Bux and Mola Bux
son of Karim Bux through Mr. Abdul
Majeed Magsi, Advocate

Complainant : Mir Muhammad son of Muhammad
Juman Jamari through Mr. Rasool
Bakhsh R.B. Solangi, Advocate

The State : Through Mr. Ghulam Murtaza mallah,
Assistant P.G., Sindh

Date of hearing : 25.09.2025

Date of Order : 25.09.2025

ORDER

Jan Ali Junejo, J.- By this order, I intend to decide Criminal Bail Application No. S-844 of 2025 filed on behalf of the above-named applicants/accused seeking post-arrest bail under Section 497, Cr.P.C., in Crime No. 13 of 2024 registered at Police Station Abadgar for offences punishable under Sections 302, 324, 147, 148, 149, 504, 337-A(i), 337-F(i), and 35, P.P.C. It is pertinent to mention at the outset that the applicants had earlier approached the learned Sessions Court by filing a criminal bail application in Sessions Case No. 08 of 2024, which was transferred to the Court of the learned Additional Sessions Judge-I, Tando Muhammad Khan, wherefrom it was dismissed vide order dated 15.07.2025.

2. The brief facts of the prosecution case as alleged in the FIR lodged by complainant Mir Muhammad are that on 07.04.2024 at about 1800 hours, while complainant along with his sons Ghulam Mustafa (since deceased), Papoo and Muhammad Usman were sitting in their Otaq, the accused persons armed with deadly weapons passed through the street. Upon objection, accused Attur allegedly fired with his pistol at the complainant's sons with intent to kill, Mola Bux allegedly struck a hatchet blow on the head of Ghulam Mustafa, Ameer Bux allegedly struck a hatchet blow on Papoo, while Raheem Bux allegedly struck a hatchet blow on Muhammad Usman. Accused Allah Bux and Dhani Bux allegedly assaulted the injured with lathis. As a result, Ghulam Mustafa succumbed

to injuries, while Papoo and Muhammad Usman received serious injuries. Thereafter, the complainant shifted the injured to hospital and lodged FIR after burial of the deceased.

3. Learned counsel for the applicants has, inter alia, contended that the applicants are innocent and have been falsely implicated in this case due to enmity and previous disputes between the parties. It is argued that there exists a material contradiction between the medical evidence and the ocular account of the prosecution witnesses. While the FIR alleges that the applicants were armed with sharp-edged weapons and used the same during the occurrence, the medical officer has opined that the injuries sustained by the deceased and the injured persons were caused by a blunt weapon, thereby creating serious doubt regarding the manner of occurrence and the specific role of each accused. It is further contended that the role assigned to applicants Dhani Bux and Allah Bux is general in nature, without any specific injury attributed to either of them. As regards accused Attur, it is argued that the allegation against him is only of ineffective firing, which did not cause any injury to the deceased or the injured, thereby making his case distinguishable from that of the co-accused. Learned counsel submits that the FIR was lodged with an unexplained delay of two days, which casts further doubt on the veracity of the prosecution story and suggests afterthought and deliberation. He further submits that no recovery of any weapon or incriminating article has been effected from any of the applicants, and there is no independent witness to corroborate the version set forth by the complainant. It is also argued that the applicants have been languishing in jail since his arrest, and their continued detention serves no useful purpose as the investigation has already been completed and challan submitted. On the basis of these grounds, learned counsel prays that the case of the applicants falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C., and therefore, they are entitled to the concession of bail.

4. Learned counsel for the complainant as well as the learned Assistant Prosecutor General have vehemently opposed the grant of bail, contending that all the applicants are specifically nominated in the FIR with clear and active roles attributed to them. It is argued that the incident resulted in the brutal murder of Ghulam Mustafa and caused serious injuries to two other persons. They further contend that the alleged contradictions between the ocular and medical accounts cannot be appreciated at the bail stage without entering into a deeper appraisal of evidence, which is impermissible at this stage. It is further argued that the

applicants acted in concert, sharing a common object, and their active participation in the occurrence is apparent from the record. They maintain that the gravity and heinous nature of the offence disentitle the applicants to the concession of bail. Lastly, both have prayed for dismissal of the bail application.

5. I have carefully considered the arguments advanced by the learned counsel for the applicants, the learned counsel for the complainant, as well as the learned Assistant Prosecutor General, Sindh representing the State, and have tentatively examined the record available at this stage. Upon tentative assessment, it transpires that all the applicants/accused are specifically nominated in the FIR with clear, distinct, and active roles attributed to each of them. The allegations are grave in nature, involving a direct assault with deadly weapons, resulting in the death of one individual and causing serious injuries to two others. The offence under Section 302, P.P.C., which entails capital punishment, is directly attracted in the present case. The contention raised by the learned defence counsel regarding alleged inconsistency between the medical and ocular accounts does not, at this stage, carry sufficient weight to create any doubt in favour of the applicants. The complainant, in his statement, has specifically alleged that accused Mola Bux inflicted a hatchet blow on the head of deceased Ghulam Mustafa, which proved fatal. Whether the said injury was caused by the sharp or blunt side of the weapon is a question of deeper appreciation of evidence, which is not permissible at the stage of deciding bail. It is by now a well-settled principle of law that minor discrepancies or variations between medical and ocular evidence cannot be made the sole basis for granting bail, as such conflicts can only be properly evaluated after the recording and scrutiny of evidence during the trial. Furthermore, the record reflects that all the applicants acted in concert, sharing a common object, with specific clear distinct and active roles attributed to each of them, the allegations are grave in nature involving a direct assault with them, the principle of collective liability squarely applies to all members involved in the incident. As regards the argument relating to the delay of two days in lodging the FIR, the same has been plausibly explained by the complainant, who remained engaged in providing medical treatment to the injured persons, performing burial rites of the deceased, and attending post-funeral condolence gatherings. In cases of homicide, such delay, when reasonably explained, is not considered fatal to the prosecution's case and does not, by itself, create any ground for the grant of bail. The offence alleged is of a heinous nature, punishable with death or imprisonment for life, and there exists strong prima facie material connecting the applicants with the commission of the offence. It is settled

law that bail cannot be granted merely on technical or procedural grounds when the accusations involve direct participation in a capital offence and when sufficient incriminating material exists on record to connect the accused with the occurrence.

6. In view of the above discussion, it is evident that the applicants/accused are specifically nominated in the FIR with clear and active roles attributed to them. The incident resulted in the loss of a human life and caused injuries to others, and prima facie sufficient material is available on record connecting the applicants with the commission of offences punishable under Section 302, P.P.C. and allied provisions of law. The grounds raised by the defence pertain to matters requiring deeper appreciation of evidence, which is not permissible at the bail stage. Accordingly, no case for further inquiry within the contemplation of Section 497(2), Cr.P.C. is made out.

7. For the foregoing reasons, the instant Criminal Bail Application, being devoid of merit, is hereby dismissed. The observations made herein are purely tentative in nature, confined to the present order, and shall not prejudice the case of either party at the time of trial. The learned trial Court is directed to proceed with the matter expeditiously and in accordance with law. These are the detailed reasons for the short order announced on 25.09.2025.

JUDGE