

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.1838 of 2025**

Raheem Badshah son of Dil Badshah.....Applicants/Accused

Versus

The State.....Respondent

*Date of Hearing* : 28.10.2025

*Date of Short Order* : 28.10.2025

For the Applicants : M/s. Muhammad Imran Kalmati and  
Aqib Khan Shar, Advocates.

For the complainant : Complainant present in person.

For the State : Mr. Zahoor Shah, Additional P.G.

### **ORDER**

**TASNEEM SULTANA, J:** Through this criminal bail before arrest application, the applicant Raheem Badshah son of Dil Badshah seeks post-arrest bail in Crime No.94 of 2025 registered at Police Station Model Colony, under Sections 320/427/279/34 PPC. Earlier, his bail plea was declined by the learned IInd Additional Sessions Judge, Karachi East vide order dated 10.07.2025, hence this bail application.

2. Brief facts of the prosecution case are that on 24.03.2025 at about 4:55 p.m., the brother of complainant namely Muhammad Qayoom along with his wife Zainab and their daughter was hit by a truck allegedly driven by the present applicant Raheem Badshah, who was driving in a rash and negligent manner. As a result, all sustained fatal injuries and later expired. The matter was reported to the police on the following day; investigation was conducted, and challan has already been submitted before the trial Court.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to malafide intention and ulterior motive; that the applicant has a valid driving license; that the death occurred due to accident and there is no allegation of intentional harm or murder; that Section 320 PPC is compoundable as well as bailable and all other sections are also bailable, therefore, he prayed for grant of post-arrest bail to the applicant/accused. In support of his contention, learned counsel for the applicant has relied

upon the case laws reported as *2020 SCMR, 315*; *PLD 1995 SC 34* and *2021 P.Cr.L.J 1300 [Lahore]*;

4. Conversely, learned Additional PG assisted by the complainant opposed the grant of bail contending that the applicant cannot be released on bail because he caused death of innocent people including an unborn child who was also died along with his mother and father; that such type of offence cannot be treated merely on the negligence but on the basis of such gross recklessness three persons have lost their lives, therefore, the instant bail may be dismissed.

5. Heard. Record perused.

6. The allegation against the applicant pertains to causing death of three persons, including an unborn child, due to his alleged rash and negligent driving. The offence under Section 320, P.P.C., is bailable whereas section 322, P.P.C. though non-bailable yet is not punishable with any period of imprisonment except the payment of Diyat. The offences punishable with death or life imprisonment or ten years fall within the prohibitory clause as contemplated under Section 497 Cr.P.C. Thus, where the criminal liability of an accused of an offence is Diyat only the offence does not fall within the prohibitory clause. Reliance in this regard can be placed on the case of *Rasool Ali v. The State* (1998 MLD 1538). It is well settled that where an offence does not fall within the prohibitory clause, the acceptance of bail is the rule, and the rejection is an exception. Reliance in this regard can be placed on the case of *Tariq Bashir and others v. The State* (PLD 1995 Supreme Court 34).

7. This Court is not oblivious of the fact that unfortunately three person including an unborn child have lost their lives in the accident of the present case, however, the fate of bail application is also to be decided within the framework of section 497, Cr.P.C. and in accordance with the guidelines on the subject laid down by the Hon'ble Supreme Court of Pakistan. Besides, above, liability of the present applicant or charges levelled against him could only be determined by the trial court after recording and evaluating the evidence. Reference can be made to the case of *Manzoor Hussain and 5 others v. The State* (2011 SCMR 902).

8. The record reflects that the unfortunate incident appears to be a result of a traffic accident rather than an intentional act. The prosecution has not brought on record any material to suggest that the applicant had any motive, prior enmity, or intention to cause the death of the deceased persons. The element of criminal intent, which is the essence of a grave offence, is prima facie missing.

9. The question of whether the accident took place due to rash or negligent driving is a matter requiring evidence and deeper appreciation, which cannot be decided at the bail stage. In these circumstances, keeping in view that the offence does not fall within the prohibitory clause of Section 497, Cr.P.C., and the investigation being complete with challan submitted, the applicant has made out a case for the post-arrest bail. In this regard, reliance is placed upon case of “Muhammad Tanveer v. The State and another” (PLD 2017 SC 733), wherein it has been observed as follows:

*“Once the Court has held in categorical terms that grant of bail in offences not falling within the prohibitory clause of Section 497, Cr.P.C. shall be a rule and refusal shall be an exception, then the Courts of the country should follow the same principle in its true letter and spirit because consistency in law declared by the Court ensures the rule of law and confidence of Courts throughout the country including the Special Tribunals and Special Courts.”*

10. In view of above facts and circumstances of the case, by a short order dated 28.10.2025 the applicant was granted post-arrest bail and these are the reasons for the same.

11. The applicant shall attend the trial regularly and shall not misuse the concession of bail; any violation shall entail cancellation of bail according to law. The observations made herein are tentative in nature and shall not prejudice either party at trial.

JUDGE

Ayaz Gul