

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-218 of 2025

Applicants : 1. Arshad son of Soof, Dahri  
2. Soof son of Allah Warayo, Dahri

&

Cr. Bail Appln. No. S-410 of 2025

Applicant : Bilawal son of Rasool Bux, Dahiri,

All three Applicants through Mr. Shabbir Ali  
Bozdar, Advocate

Complainant : Javed Ahmed son of Saeed Khan, Dahri.  
Through. Deewan Dhanraj, advocate.

The State Through Mr. Muhammad Raza Katohar, DPG.

Date of hearing : 04.09.2025

Dated of order : 11.09.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J:—** Both these bail applications arise out of FIR No. 54/2024, for offences under Sections 324, 302, 114, 506/2, 337-H(2), 148 and 149 PPC, registered at Police Station Lakha Road, District Naushahro Feroze. Applicants Soof and Arshad seek confirmation of ad-interim pre-arrest bail obtained earlier; Bilawal seeks post-arrest bail.

2. The complainant's case, briefly put, is that complainant Javed Ahmed and his relatives were witnesses in an earlier murder trial against Dilawar alias Dilu Dahri and others. In retaliation, members of the Dahri group, including the present accused, threatened them to withdraw their testimony. On 06.10.2024, the complainant along with his brother Muhammad Hussain and others, was returning from his agricultural land when they were intercepted near Lakha Road railway crossing by armed accused. Soof allegedly made a straight fire with Kalashnikov at Muhammad Hussain which struck his arm, followed by firing from Sajjad alias Eeto at his hand. Other accused including Nadir Ali, Yaseen, Sono and Sarang allegedly fired shots

that struck Muhammad Hussain, ultimately damaging his head and causing his death. The FIR further records the names of several others, including Arshad with a repeater and Bilawal with a pistol, but against them no particular role of firing is recited, save for the allegation of their presence in the armed assembly.

3. Learned counsel for applicants argued that the applicants have been roped into this case due to admitted hostility and ongoing litigation between the parties. He submitted that the complainant is in the habit of implicating entire family members to settle enmities and that the question of mala fides is apparent on the face of the record. It was emphasized that the challan has been submitted; therefore no further investigation or recovery is to be made from applicants. In support, reliance was placed upon *Khiyal Saba v. The State* (2020 SCMR 340), where the Honourable Supreme Court reiterated that where the element of mala fide is pleaded and appears arguable, pre-arrest bail cannot be refused merely on account of nomination. Further reliance was placed on *Attaullah v. The State* (2020 SCMR 451), wherein the Apex Court granted bail to an accused against whom only general allegation of presence was available without a specific injury attributed, holding that such case fell within further inquiry under Section 497(2), Cr.P.C. Counsel also cited *Muhammad Nadim v. The State* (2023 SCMR 184), where the principle was stressed that bail is essentially a rule and refusal is an exception, particularly where the case hinges on disputed facts or the role of accused is indistinct.

4. On the other hand, learned Deputy Prosecutor General assisted by complainant's counsel strenuously opposed the confirmation of bail. He argued that the applicants are specifically nominated in the FIR as part of an unlawful assembly and acted in prosecution of their common object by aiding in the murder of Muhammad Hussain. It was emphasized that Soof was the

first to fire upon the deceased, repeating his criminal propensity since he had also previously been involved in a murder case. Learned counsel contended that specific attribution of firing disentitles him from discretionary relief. Reliance was placed on 2024 SCMR 1576, wherein it was held that when an accused is specifically nominated and the injury caused by him is established as leading to fatal consequence, bail should not be extended irrespective of co-accused being granted concession on grounds of further inquiry.

5. I have given thoughtful consideration to the rival contentions and sifted through the material available on record.

6. With regard to applicant Soof, the FIR in unequivocal terms alleges that he, while armed with a Kalashnikov, fired directly at the deceased Muhammad Hussain, causing injury to his left arm, thereby initiating the sequence of firing resulting in fatality. The principle enunciated in 2024 SCMR 1576 squarely applies, as that precedent categorically held that once a direct role of firing is assigned connecting the accused to the commission of capital offence, courts must be slow in extending the concession of bail notwithstanding other mitigating factors. In such scenario, neither the plea of mala fide nor previous enmity by itself suffices to dilute the direct attribution of firearm injury traced to the applicant. The case law cited by defence, being distinguishable on facts where no active role was assigned, does not come to their aid insofar as Soof is concerned. Accordingly, he is not entitled to confirmatory relief, and the ad-interim bail earlier granted to him is recalled.

7. Turning to applicants Arshad and Bilawal, the allegations levelled are qualitatively different. The FIR demonstrates their presence armed with weapons but there is no allegation that either of them fired at the deceased or that any fire made by them landed upon the complainant side. It has been held in *Attaullah* (2020 SCMR 451) that when the prosecution case is bereft of any specific attribution against an accused and his role is limited to general

presence in an unlawful assembly, the matter becomes one of appreciation of evidence at trial and falls squarely under the ambit of further inquiry. Similarly, in *Muhammad Nadim* (2023 SCMR 184), the Apex Court underscored that in borderline cases where evidence does not conclusively fix responsibility, bail should ordinarily be granted. *Khiyal Saba* (2020 SCMR 340) further underlined that misuse of process through false implication, particularly in family enmity cases, justifies exercise of discretion in favour of the accused. Applying these pronouncements, the case against Arshad and Bilawal appears to require deeper scrutiny at trial, and no useful purpose would be served by continued incarceration when challan has already been submitted.

8. Consequently, the case of Soof is found distinguishable from that of Arshad and Bilawal. While the former carries a clear, active role in initiating the fatal occurrence, the latter two appear to be roped in on account of general allegation of presence, thus attracting Section 497(2) Cr.P.C. Accordingly, ad-interim pre-arrest bail earlier granted to applicant Arshad is confirmed on same terms and conditions with direction that he shall continue to attend the trial proceedings. Applicant Bilawal is granted post-arrest bail, subject to furnishing solvent surety in the sum of Rs.500,000/- (Five Hundred Thousand Rupees) and P.R. bond in like amount to the satisfaction of learned Trial Court.

9. Needless to mention, the observations made herein are purely tentative and confined to the disposal of present bail applications, and shall not prejudice the merits of the case at trial.

**J U D G E**