

**ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Cr. Bail Application No. S-561 of 2025

Applicants	:	1) Iqbal Ahmed S/O Mangna Rajput 2) Akram alias Ikram S/O Basit Ali Rajput (Now confined at District Prison, Ghotki) Through Mr. Liaquat Ali Malano, Advocate
Complainant	:	Mst.Rizwana w/o Naveed Ali Rajput Through Mr. Qaimuddin Malano, Advocate
The State	:	Mr. Mansoor Ahmed Shaikh, DPG along- with Mr. Attaullah Kalwar, Special Prosecutor for Pakistan Railways.
Date of hearing	:	18.08.2025
Date of Short Order	:	18.08.2025
Date of detailed Order	:	20.08.2025

KHALID HUSSAIN SHAHANI, J. – Applicants Iqbal Ahmed and Akram alias Ikram seek post arrest bail in a case bearing crime No. 03/2025 registered at Police Station Railway Rohri for offence under Sections 302, 120(B), and 109 PPC. Prior to this, the bail of applicants was declined by the court of learned Additional Sessions Judge-I (MCTC), Ghotki vide order dated 15.05.2025.

2. The prosecution case, as disclosed in the FIR, reveals that on 14.01.2025 at about 1700 hours, one Rizwana, the wife of Naveed Ali lodged the subject FIR stating therein that she had contracted a love marriage with Naveed Ali about a year prior in Nawab Shah Court. According to the complainant, their relatives were annoyed with this marriage and she was residing with her husband at Nawab Shah in a rented house where she gave birth to a son aged about four months at the time of the incident. The complainant alleged that her brothers, including Tanveer, had issued threats of murder to her and her husband due to their love marriage. On 06.01.2025, the complainant's maternal uncle Muhammad Akram called them to Lahore for work purposes, where they resided for six days. When their son became ill, they decided to return to Nawab Shah through Awami Express train. The complainant alleged that when the train stopped at Ghotki Railway Station on 13.01.2025, her husband Naveed Ali got down to fetch water for her when she heard the sound of firing. She claimed to have seen that fire was directed at the head of her husband who was seriously injured and fell down at the platform. Railway police reached the spot, took possession of a pistol and empty shell,

and shifted the injured to Taluka Hospital Ghotki and later to Sukkur Hospital and then Gambat Hospital, where the deceased succumbed to his injuries. The FIR was registered with a delay of one day on 14.01.2025, and the applicants were not nominated in the original FIR, but were subsequently named in the further statement of the complainant recorded on 10.03.2025, about two months after the registration of the FIR.

3. The learned counsel for the applicants has advanced several compelling arguments in support of the bail application, contending that the prosecution case is fundamentally flawed and lacks the necessary legal foundation to justify continued detention of the accused persons. The primary submission made by the learned counsel is that the applicants were not nominated in the FIR registered on 14.01.2025, and their names only emerged in the further statement of the complainant recorded on 10.03.2025, representing an unexplained delay of about two months. This delayed identification, according to the learned counsel, raises serious questions about the genuineness of the allegations and suggests that the accused persons have been falsely implicated in the case for reasons extraneous to the actual incident. The learned counsel has emphasized that the prosecution has failed to provide satisfactory explanation for why the complainant, who claims to have witnessed the incident firsthand, did not name these specific individuals at the time of lodging the FIR. Furthermore, the learned counsel has highlighted that there was an unexplained delay of one day between the alleged incident on 13.01.2025 and the registration of the FIR on 14.01.2025. While acknowledging that the distance between the place of occurrence and the police station was about 56 kilometers, the learned counsel has argued that this delay remains unjustified, particularly when the complainant allegedly witnessed the incident and was present at the scene. Such delay in reporting a murder case, according to the learned counsel, creates serious doubt about the veracity of the prosecution case and suggests that the FIR may have been lodged after due deliberation and consultation rather than as an immediate response to the traumatic incident. The learned counsel has also emphasized that apart from the complainant, there is no other eyewitness to the alleged incident. This absence of independent corroborative evidence, according to the submission, makes the prosecution case entirely dependent on the testimony of the complainant who was allegedly the wife of the deceased. The learned counsel has contended that this singular reliance on the complainant's version, without independent witness or corroborative evidence, makes the prosecution case vulnerable and requires careful scrutiny before any person can be convicted based solely on such testimony. Most significantly, the learned counsel has

brought to the attention of this Court that the Special Prosecution Railways has declared the complainant as hostile. This development, according to the learned counsel, fundamentally alters the complexion of the prosecution case as the principal witness upon whom the entire case hinges has turned hostile. The learned counsel has argued that when a complainant turns hostile, it severely undermines the strength of the prosecution case and creates reasonable doubt about the veracity of the allegations. The hostility of the complainant, according to the submission, is not merely a procedural issue but goes to the root of the prosecution case as it indicates that even the person who allegedly witnessed the incident and initially made the allegations is no longer supporting the prosecution version. Additionally, the learned counsel has submitted that only four witnesses are to be examined in this case, and with the complainant having turned hostile, the evidentiary foundation of the prosecution case becomes even more tenuous. The limited number of witnesses, coupled with the hostile stance of the principal witness, according to the learned counsel, suggests that the prosecution may face considerable difficulty in establishing its case beyond reasonable doubt at the time of trial. The learned counsel has further submitted that the widow, mother and brother of the deceased have filed affidavits of no objection to their release on bail, indicating family support and confidence in the accused persons' character and their likelihood to appear for trial if granted bail.

4. Mr. Kalwar, the learned Special Prosecutor Railways appearing for the State has vehemently opposed the bail application and has contended that the applicants are not entitled to the concession of bail in view of the serious nature of the charges leveled against them. He also argued that the applicants have been charged with offences under Sections 302, 120(B), and 109 PPC, which attract severe punishment including death penalty or imprisonment for life, and such offences fall squarely within the prohibitory clause of Section 497 Cr.P.C. He also submitted that the prosecution has sufficient evidence to connect the applicants with the commission of the alleged offence and that reasonable grounds exist for believing that they have committed the crime charged against them. According to him, delay if any in nomination of the accused persons in the FIR is not fatal to the prosecution case, as investigations often reveal additional facts and circumstances that were not initially apparent to the complainant at the time of lodging the FIR. He emphasized that, the further statement of the complainant recorded on 10.03.2025 was based on the investigation conducted by the police and the evidence that came to light during the course of inquiry. He further argued that it is not uncommon for complainants in traumatic situations to not immediately recall all details or identify all persons involved in the incident, and subsequent identification based on investigation

cannot be deemed as false implication. Regarding the delay in registration of the FIR, he submitted that the complainant was in a state of shock and trauma following the murder of her husband, and the one day delay is not significant enough to cast doubt on the entire prosecution case. He submitted that the complainant had to travel from the place of occurrence to the police station, and considering the circumstances and the emotional state of the complainant, the delay is explicable and does not suggest any fabrication or afterthought. He further argued that even if the complainant has been declared hostile while recording her testimony, this does not automatically entitle the accused to bail, as hostile witnesses can still provide valuable testimony that may be partly relied upon by the prosecution. He further contended that the hostility of a witness is a matter to be determined at trial, and the prosecution may still be able to establish its case through other evidence and circumstances. According to him, the mere fact that the principal witness has turned hostile does not create sufficient grounds for believing that the accused are innocent or that the case requires further inquiry under Section 497(2) Cr.P.C. He also submitted that the applicants, if released on bail, may interfere with the investigation, influence the remaining witnesses, or abscond from justice, thereby defeating the ends of justice. According to him, the nature of the offence and the circumstances of the case suggest that the accused persons pose a risk to the administration of justice if released on bail. He concluded that, the prosecution case is strong enough to justify continued detention of the accused persons until the conclusion of the trial, and granting bail at this stage would be prejudicial to the interests of justice and the prosecution case.

5. Mr. Malano, counsel for the complainant has conceded the arguments advanced by the learned counsel of applicant and raised no objection for admitting the applicants to bail.

6. Having heard the learned counsel for the respective parties, Special Prosecutor Railways and having carefully perused the record of the case with their able assistance, this Court is required to determine whether the applicants are entitled to the discretionary relief of bail under the provisions of Section 497 of the Code of Criminal Procedure. The fundamental question that arises for consideration is whether there exist reasonable grounds for believing that the applicants have committed the offence with which they are charged, or alternatively, whether the case requires further inquiry as contemplated under Section 497(2) Cr.P.C.

7. The law relating to bail, as consistently laid down by the superior courts, requires this Court to make a tentative assessment of the facts and

circumstances of the case to determine whether sufficient material exists to connect the accused with the commission of the alleged offence. The Supreme Court of Pakistan has repeatedly held that while detailed examination of evidence and elaborate documentation of the merits of the case are to be avoided at the bail stage, the Court must be satisfied as to whether there exists a prima facie case against the accused based on the material placed before it by the prosecution. The words "reasonable grounds" as used in Section 497 Cr.P.C. are words of higher import than mere suspicion and must appeal to a reasonable judicial mind based on tangible evidence that, if left unrebutted, may lead to an inference of guilt.

8. In examining the prosecution case against the applicants, this Court finds several factors that create serious doubt about the strength of the evidence and the genuineness of the allegations. The most significant factor is the non-nomination of the applicants in the FIR coupled with their delayed identification after about two months without satisfactory explanation from the prosecution. This circumstance cannot be dismissed as a minor procedural irregularity, as it goes to the very foundation of the prosecution case and raises fundamental questions about whether the accused were actually involved in the alleged incident or were subsequently implicated for reasons unconnected with the crime. The prosecution's failure to provide plausible justification for this delay in identification significantly weakens the case against the applicants and creates doubt about the veracity of the allegations.

9. The unexplained delay of one day in registering the FIR, when viewed in conjunction with the delayed nomination of the accused, further compounds the weakness of the prosecution case. While this Court acknowledges that delay in reporting a crime is not always fatal to the prosecution case, it becomes significant when considered along with other circumstances that cast doubt on the genuineness of the allegations. In the present case, the complainant claims to have witnessed the incident and was allegedly present at the scene, yet failed to report the matter immediately or name the accused persons at the time of lodging the FIR. This pattern of delay and subsequent identification creates a reasonable apprehension that the case may have been fabricated or that the accused persons have been falsely implicated. The declaration of the complainant as hostile by the Special Prosecution Railways represents perhaps the most crucial development that impacts the assessment of the prosecution case. When the principal witness, who forms the backbone of the prosecution case, turns hostile, it not only weakens the evidence available against the accused but also raises

fundamental questions about the truthfulness of the allegations. The hostility of a complainant is particularly significant in criminal cases as it indicates that even the person who allegedly suffered the loss or witnessed the crime is no longer willing to support the prosecution version. This development, in the context of the present case, severely undermines any reasonable grounds that may have existed for believing that the accused committed the alleged offence.

10. The absence of any independent eyewitness except the complainant, who has now turned hostile, leaves the prosecution case without substantial corroborative evidence. While the testimony of a sole witness can theoretically be sufficient for conviction if it is truthful and reliable, the hostility of that witness creates serious doubt about the prosecution case. The lack of independent corroborative evidence becomes particularly significant when the sole witness is no longer supporting the prosecution case, as it leaves the prosecution without any substantial foundation upon which to build its case against the accused.

11. This Court also notes that only four witnesses are to be examined in the case, and with the complainant having turned hostile, the prosecution is left with an extremely limited evidentiary base to establish its case beyond reasonable doubt. The paucity of witnesses, combined with the hostility of the principal witness and the other weaknesses in the prosecution case, creates a situation where the prosecution may face insurmountable difficulties in proving the charges against the accused persons.

12. Furthermore, the fact that widow being complainant as well as Mst. Muniba Begum and Qasim Ali, the mother and brother respectively of deceased Naveed Ali have filed affidavits of no objection to release the applicants on bail indicates family support and suggests that the accused persons are not likely to abscond if granted bail. This factor, while not determinative, is relevant for assessing the likelihood of the accused appearing for trial and cooperating with the legal process. In light of the Supreme Court's consistent jurisprudence, this Court finds that the combination of factors present in this case the non-nomination in the FIR, delayed identification after two months, unexplained delay in FIR registration, hostile complainant, lack of independent witnesses, and limited number of witnesses collectively point towards the conclusion that reasonable grounds do not exist for believing that the applicants have committed the alleged offence. Alternatively, even if some grounds exist, the case clearly falls within the ambit of requiring "further inquiry" as contemplated under Section 497(2) Cr.P.C, given the numerous weaknesses and contradictions in the prosecution case.

13. The concept of "further inquiry" is not limited to cases where investigation is pending but extends to situations where the available evidence is insufficient to establish reasonable grounds for believing that the accused has committed the offence. The jurisprudence developed by the superior courts consistently emphasizes that where the prosecution case is weak, doubtful, or requires further scrutiny, the accused should not be kept in custody indefinitely, as bail is not to be withheld as a form of punishment.

14. This Court is also mindful of the constitutional principle that liberty of citizens is a fundamental right that cannot be curtailed except in accordance with law and due process. Where the prosecution case appears to be weak or is beset with material contradictions, the courts should lean in favor of granting bail rather than keeping citizens in prolonged detention without sufficient justification. The principle of "bail is the rule, jail is the exception" must be given due consideration, particularly when the prosecution case lacks the strength necessary to justify continued incarceration of the accused persons.

15. After careful consideration of all the circumstances, the material on record, the arguments advanced by both sides, and the legal principles governing the grant of bail, this Court has formed a tentative assessment that the prosecution case against the applicants is weak and does not establish reasonable grounds for believing that they have committed the alleged offence. The numerous weaknesses in the prosecution case, including the delayed nomination, hostile complainant, lack of independent witnesses, and other circumstances, collectively indicate that the case falls within the ambit of requiring further inquiry rather than continued detention of the accused persons.

16. Accordingly, while maintaining that these observations are tentative in nature and confined to the limited purpose of determining the bail application, this Court is of the view that the applicants have made out a case for the grant of bail. These observations shall not influence the learned trial Court while deciding the case on merits, and the trial Court shall remain free to assess the evidence independently and reach its own conclusions based on the material produced during the trial.

17. In view of the foregoing discussion and analysis, the applicants Iqbal Ahmed and Akram alias Ikram were admitted to bail in the sum of Rs.200,000/- each, and PR bond in the like amount to the satisfaction of learned trial court vide short order dated 18.08.2025. These are the detailed reasons thereof.

J U D G E