

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-586 of 2025

Applicant : Qurban s/o Jaffer, by caste Jagirani,
Through Mr. Shevak Ram Valecha

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Dated of Hearing : 18.09.2025
Dated of order : 25.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J- Applicant Qurban Jagirani, seeks post-arrest bail in Crime No.55/2024, for offences under Sections 302, 324, 114, 147, 148, 149, 337-H(ii) PPC, registered at Police Station Jhangro. His earlier post-arrest bail plea was declined by learned Additional Sessions Judge-IV (Hudood), Sukkur, vide order dated 25.03.2025, hence approached this court for the same relief.

2. According to the complainant Sikander Ali Jagirani, a longstanding dispute over cattle grazing between the complainant and accused parties culminated in violent confrontation on 29.08.2024 near the protective bund at Drung Belo, Lakhan Jagirani village. Multiple accused, including the applicant, allegedly acted with a common intention to inflict grievous injuries and murder as part of the assault, utilizing firearms and weapons such as hatchets. The FIR narrates that this violent episode resulted in the death of Jamshed and serious injuries to Habibullah and Raheem Bux.
3. The learned counsel for the applicant submitted that no active or specific role was assigned to the applicant other than his mere presence and making aerial firing being armed with k.k, contending his false implication and claiming he was no longer needed for investigation as the challan had been submitted.
4. Conversely, the learned Deputy Prosecutor General vehemently argued against bail, emphasizing the applicant's presence armed at the crime

scene, making aerial firing and sharing the criminal intention. Significantly, the learned DPG placed on record FIR No.64 of 2025 registered during the pendency of the instant case, in which some absconding co-accused, namely Gulsher, Noor Muhammad, and Raza Muhammad, were accused of committing another murder of a similar grave nature of complainant party. This, the learned DPG contended, reflects the perilous conduct of the accused group and underscores the reasonable apprehension that granting bail to the applicant may facilitate recurrence of violent offences or meddling in the judicial process through intimidation.

5. Upon careful consideration, it is noted that although the applicant's direct active role is not clearly attributed, except his armed presence and making aerial firing while leaving venue of occurrence, with the co-accused who inflicted fatal and grievous injuries establishes participation under the doctrine of common intention. The delay in FIR registration and motive arising from enmity were sufficiently explained, and prosecution evidence supports the complainant's version. The Hon'ble Supreme Court of Pakistan in *Ahtisham Ali v. The State* (2023 SCMR 975) has categorically held that common intention under Section 34 PPC "*presupposes prior concert and requires a prearranged plan*" and that mere presence with assistance constitutes participation in the criminal act. The Court emphasized that for establishing common intention, there must be evidence of shared plan, premeditation, or mutual understanding amongst accused persons.

6. In *Ali Imran v. The State* (PLD 2007 SC 87), it was established that "*common intention generally involves element of common motive, pre plan preparation, and action pursuant to such plan*". The applicant's role of making aerial firing while armed, though not directly causing fatal injury, demonstrates active participation in furtherance of common criminal design as envisaged under Section 34 PPC.

7. Regarding aerial firing, this Court is aware that Honorable Supreme Court in *Miran Bux v. The State* (PLD 1989 SC 347) no doubt recognized that while "*liberty of a person is a precious right, which cannot be taken away merely on the basis of bald allegations*" this principle must be balanced against compelling circumstances indicating reasonable grounds for believing in the accused's guilt and prima facie aggression of the parties at the spot, which is apparently from the corner of accused's party. Critically, the subsequent commission of a similar grave offence by absconding co-accused during trial proceedings reinforces the apprehension that releasing the applicant on bail carries tangible risk of repeated offences. This Court is cognizant that the continuation of such violent conduct threatens public peace and gravely endangers community safety. It is a settled principle that bail jurisdiction must be exercised with caution in cases involving serious crimes and where there is a potential for recurrence or interference with the administration of justice. The conduct of accused and co-accused constitutes a relevant factor in bail determination, which cannot be granted in a run & mill manner.

8. In *Muhammad Akbar v. The State* (PLD 1991 SC 923) the Honorable Supreme Court described distinction between common intention (knowledge) & common intention and the outcome of the case is that; those who stand together, must fall together and that it is immaterial as to what part was played by whom when common intention is established. The applicant's armed presence and aerial firing, coupled with the fatal assault by co-accused, satisfies the requirements of joint criminal liability under Section 34 PPC.

9. The registration of FIR No. 64 of 2025 against absconding co-accused for committing another murder demonstrates the continuing criminal propensity of the group and validates the apprehension that releasing the applicant may facilitate further violence. This Court finds guidance in the principle established in various precedents that bail may be refused where there

exists reasonable apprehension of repetition of offence or interference with the administration of justice.

10. Therefore, in view of the serious nature of the allegations, corroborated prosecution evidence, established doctrine of common intention under Section 34 PPC as interpreted by the Supreme Court in *Ahtisham Ali v. The State* (2023 SCMR 975), and the alarming conduct of co-accused in continuing criminality post-incident, this Court finds that granting bail to the applicant at this stage is not warranted. The inherent risk of repetition of offence and disruption to public order, as demonstrated by the additional FIR against the absconding co-accused, strongly militates against the concession of bail.

11. Accordingly, the instant bail application is dismissed with the clarification that these observations are tentative and shall not prejudice the trial merit.

J U D G E