

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Criminal Bail Application. No.S-122 of 2026.
(Gulzar Lakhan vs. The State).*

Applicant : Gulzar Lakhan, *through*,
Mr. Abdul Hafeez Mirani, Advocate.

The State : *through* Syed Sardar Ali Shah Rizvi,
Additional Prosecutor General.

Complainant : Mst. Rani Lakhan, *through*
Mr. Altaf Shah, Advocate

Date of Hearing : 20.04.2026
Date of Decision : 20.04.2026.

ORDER

Ali Haider 'Ada' J:- Through this bail application, the applicant seeks post-arrest bail in Crime No.15/2025 registered at Police Station Tamachani, District Sukkur, for offences punishable under Sections 457, 302, 324, 114, 337-H(2), 148 and 149, P.P.C. The F.I.R. was lodged on 22.04.2025, the date of the incident being the same.

2. The crux of the prosecution case is that on 22.04.2025, the applicant, namely Gulzar Lakhan, instigated other co-accused persons, and duly armed, to commit the murder of deceased Abdul Sattar, who, after sustaining injuries, succumbed to the same. The role attributed to the present applicant in the F.I.R. is that he instigated the co-accused for the commission of the murder. After the completion of the usual investigation, a report under Section 173 Cr.P.C was submitted by the Investigating Officer. Earlier, the applicant approached the learned trial Court for the grant of bail; however, the same was dismissed vide order dated 02.08.2025.

3. Learned counsel for the applicant contends that only a role of instigation has been attributed to the applicant, which is general and

unsubstantiated. He submits that no allegation of active participation, firing, or direct involvement in the commission of the offence has been leveled against the applicant. It is argued that at this stage the principle of "bail not jail" is attracted. Reliance is placed on 2020 SCMR 1814.

4. Conversely, learned counsel for the complainant, present along with the complainant, opposes the grant of bail. He submits that the case involves common intention and common object, which are sufficient to attract liability under Sections 148 and 149, P.P.C. It is further contended that the applicant was actively involved in the occurrence and is equally responsible for the death of the deceased. He further submits that the complainant has also lodged another F.I.R. bearing Crime No.65 of 2026 dated 31.03.2026 with the date of incident shown as 30.03.2026, which reflects a likelihood that, if released on bail, the applicant may repeat similar offences. Reliance is placed on 2014 YLR 2417, 2020 P.Cr.LJ Note 85, PLD 2012 Sindh 272, PLD 2006 S.C. 87, and PLD 2007 S.C. 93.

5. On the other hand, the learned Additional Prosecutor General submits that although *mens rea* is a foundational ingredient of criminal liability, in the present case, the material collected during the investigation does not prima facie establish any direct act of firing by the applicant. He submits that only a role of instigation has been assigned, the evidentiary value of which is to be determined at trial after the recording of evidence. He, however, concedes that the offence falls within the prohibitory clause and prays that the trial Court may be directed to conclude the trial within a stipulated period.

6. Heard the learned counsel for the parties and perused the material available on record.

7. The perusal of the record reveals that the F.I.R. was lodged on 22.04.2025 for offences punishable under Sections 302, 324, 114, 337-

H(2), 148 and 149, P.P.C. The prosecution version, as reflected from the material placed on record, suggests that the applicant was allegedly present at the place of incident along with a Kalashnikov (K.K). However, it is an admitted position on record that the said weapon was not used in the commission of the offence. The entire prosecution case, insofar as it relates to the present applicant, rests upon the allegation of instigation rather than any allegation of direct firing, active participation, or specific overt act in the commission of the murder of the husband of the complainant.

8. It is well-settled principle of law that at the bail stage, only a tentative assessment of the material collected by the prosecution is to be made. The question of *mens rea* and the ultimate guilt or innocence of an accused person is a matter to be determined by the trial Court after recording of evidence. Though learned counsel for the complainant has contended that the ingredients of Section 149, P.P.C. relating to common object are attracted, however, it is equally well-established that even in cases falling within the ambit of Sections 149 or 34, P.P.C., the role of each accused is to be examined independently for bail, particularly where no specific overt act or direct participation is attributed. In the present case, the role assigned to the applicant is of instigation, and at best, of a facilitator, whereas no allegation of firing or causing any physical harm has been attributed to him. Such role, being distinguishable from that of the principal assailants, requires deeper inquiry which can only be undertaken at the trial stage. At this tentative stage, the material available on record brings the case of the applicant within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. Reliance in this regard is placed on the principles laid down in the cases of **Ghulam Hyder v. The State (2021 SCMR 1802)**, **Tariq Zia v. The State (2003 SCMR 958)**, and **Abdul Shakoor Jamro v. The State (2021 YLR Note 140)**.

9. In view of the above facts and circumstances, the instant bail application is hereby allowed , the applicant/accused is admitted to

post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees one hundred thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

JUDGE