

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

1st Criminal Bail Application No.S-327 of 2026

Applicant : Muhammad Mithal son of Muhammad Bakhsh Soomro, *Through* Mr. Habibullah G. Ghouri, Advocate.

Complainant : Saddam Hussain son of Suhno Khaskheli *Through* Mr. Muhammad Ashique Dhamraho, Advocate.

The State : *Through* Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh.

Date of hearing : 21.09.2026.

Date of decision : 21.09.2026.

ORDER

RIAZAT ALI SAHAR, J.:- The applicant/accused has sought post-arrest bail by filing the instant application under Section 497 Cr.P.C in Crime No.16/2025, registered at Police Station Khabbar, District Kamber-Shahdadkot for offences punishable under Sections 302, 148, 149 PPC. His earlier bail application was dismissed by the learned 1st Additional Sessions Judge, Shahdadkot vide order dated 14.10.2026.

2. The prosecution story, in a nutshell, as narrated in the F.I.R., is that there was a dispute over money between the complainant party and accused Ahsan Soomro, and upon demand of the said amount, the accused party allegedly became annoyed. It is alleged that on 02.08.2025, the complainant, along with his relatives Sabir Hussain and Gulab Khan, was travelling on one motorcycle, whereas his brother Nisar Ahmed and brother-in-law Muhammad Hassan were travelling on another motorcycle. At about 04:00 p.m., when they reached near Village Sher Muhammad alias Gajo, they allegedly came across eight persons riding four motorcycles. The complainant identified six of them as Ahsan Soomro, Khair Muhammad, Mithal Soomro, Roshan Soomro, Jan Muhammad Soomro and Sohbat Soomro, all residents of Village Faiz Muhammad Soomro, Taluka Miro Khan, whereas two others were unidentified. It is further alleged that the accused persons, while armed with deadly

weapons, stopped the motorcycles and, after raising a hakal, addressed Muhammad Hassan, stating that he had insulted them by repeatedly demanding money and that they would not spare him that day and would kill him. Thereafter, accused Ahsan Soomro allegedly made a direct pistol fire at Muhammad Hassan with an intention to commit his murder, which hit him on the right side of his back. He thereafter allegedly fired at Nisar Ahmed, which hit him on the left side of his back. It is further alleged that accused Khair Muhammad fired at Muhammad Hassan, hitting him on the right side of his back; accused Mithal fired at him, hitting him on the left side of his back; accused Roshan fired at him, hitting him on the right buttock; accused Jan Muhammad fired at him, hitting him on the left shoulder; and accused Sohbat fired at him, hitting him on the right side of his head, as a result whereof Muhammad Hassan fell down. Thereafter, all the accused allegedly fled from the spot. The complainant claims to have witnessed the firing and sustained injuries caused to Nisar Ahmed and Muhammad Hassan, who subsequently succumbed to their injuries. Their dead bodies were thereafter shifted to Taluka Hospital, Miro Khan, where postmortem examinations were conducted. After performing the funeral rites, the complainant lodged the present F.I.R. against the accused persons.

3. Learned counsel for the applicant/accused contends that the applicant has been falsely implicated in the present case due to previous enmity existed between the parties. He submits that the postmortem examinations of the deceased were conducted prior to the lodgment of the F.I.R., whereas the F.I.R. was registered after an unexplained delay of about 28 hours. According to learned counsel, such delay, particularly in a case involving serious allegations, gives rise to a reasonable possibility of deliberation, consultation and subsequent improvement in the prosecution version, which creates doubt regarding the applicant's involvement in the alleged offence. Learned counsel further submits that the circumstances surrounding the registration of the F.I.R. require further inquiry and that the applicant has been nominated subsequently with a specific role, despite the aforementioned delay and the admitted background of enmity.

He, therefore, submits that the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C., and prays that the applicant may be admitted to bail.

4. Conversely, learned Deputy Prosecutor General, assisted by learned counsel for the complainant, has vehemently opposed the instant bail application and submits that the applicant has been specifically nominated in the F.I.R. with a clear and specific role in the occurrence. It is contended that the allegations against the applicant are direct and specific in nature and relate to a serious offence involving the loss of two precious human lives. Learned Deputy Prosecutor General submits that, in such circumstances, the applicant does not deserve the concession of bail at this stage, particularly when the prosecution case is yet to be tested through evidence before the learned Trial Court.

5. As regards the contention of learned counsel for the applicant that the postmortem examinations of the deceased were conducted prior to the lodgment of the F.I.R., learned counsel for the complainant submits that the said circumstance, by itself, does not render the prosecution case doubtful. He explains that the occurrence had already been reported to the police telephonically immediately after the incident, whereafter the dead bodies were shifted to the hospital for necessary medico-legal formalities and autopsy. It is, therefore, contended that the fact that the formal F.I.R. was registered subsequently, after completion of the postmortem examinations, cannot be treated in isolation so as to create a presumption of consultation or fabrication, particularly when the occurrence had already been brought to the notice of the police. Learned counsel further submits that the delay in formally lodging the F.I.R., if any, has been adequately explained in the circumstances of the case and that the same does not, at this stage, outweigh the direct nomination of the applicant and the specific role attributed to him. He, therefore, submits that the material available on record *prima facie* connects the applicant with the commission of the alleged offence and that the grounds urged on behalf of the applicant require proper appreciation after recording of evidence. Both

learned Deputy Prosecutor General and learned counsel for the complainant, therefore, lastly pray for dismissal of the instant bail application and oppose the grant of concession of post-arrest bail to the applicant/accused.

6. Heard learned counsel for the parties and perused the record.

7. *Prima facie*, the applicant/accused is specifically nominated in the F.I.R. with a direct and specific allegation that he was armed with a pistol and made a firearm shot at deceased Muhammad Hassan, which hit him and resulted in his death. Thus, at this stage, the applicant has been attributed a specific role in the occurrence, and his involvement cannot be discarded merely on the basis of the grounds urged on his behalf.

8. As regards the contention that the postmortem examination of the deceased was conducted prior to the lodgment of the F.I.R., learned Deputy Prosecutor General has drawn attention of the Court to the Daily Diary (D.D.) Entry No.08 dated 02.08.2025, recorded at 16:08 hours, whereby the occurrence had already been reported to the police; however, the formal F.I.R., was registered on 03.08.2025 at 08:00 hours. The said contemporaneous police record, therefore, *prima facie* indicates that the police had been informed about the occurrence prior to the conduct of the postmortem examinations, and that the dead bodies were thereafter subjected to medico-legal examination pursuant to such information.

9. In these circumstances, the mere fact that the postmortem examinations were conducted before registration of the formal F.I.R. does not, at this stage, appear sufficient to establish that the postmortem proceedings were undertaken without any prior intimation to the police or that the prosecution story was subsequently fabricated. Rather, the D.D. entry preceding the postmortem and the formal F.I.R. tends to explain the sequence of events and, tentatively, negates the contention of learned counsel for the applicant that the postmortem examinations were conducted before the occurrence was brought to the notice of the police.

10. In the circumstances discussed above, the contention regarding the postmortem examinations having been conducted prior to registration of the formal F.I.R. does not, at this stage, create sufficient doubt in favour of the applicant, particularly when the occurrence had already been reported to the police through D.D. Entry No.08 dated 02.08.2025 at 16:08 hours. The said entry *prima facie* establishes that the police had been informed of the occurrence well before the formal registration of the F.I.R. on 03.08.2025 at 08:00 hours. The evidentiary value of the said entry, the circumstances in which the postmortem examinations were conducted, the subsequent delay in registration of the formal F.I.R., and the role attributed to the applicant are matters to be finally determined by the learned Trial Court after recording of evidence; however, at this stage, these circumstances do not appear sufficient to bring the case within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.

11. *Prima facie*, the applicant is specifically nominated in the F.I.R. and a direct role of making a firearm shot at deceased Muhammad Hassan has been attributed to him, resulting in his death. The allegation is thus specific and is supported by the ocular account, whereas the question of its ultimate correctness is a matter for determination at trial. Keeping in view the nature of the allegation, the specific role attributed to the applicant, and the fact that two persons lost their lives in the occurrence, no sufficient ground has been made out for extending the concession of post-arrest bail to the applicant. Consequently, the instant bail application is **dismissed**.

12. Nevertheless, it has been observed that the findings and observations made herein are purely tentative in nature and have been recorded solely for the purpose of deciding the present bail application. They shall not prejudice or influence the case of either party during the course of trial, which shall be decided strictly on the basis of the evidence adduced before the trial Court.

JUDGE