IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.962 of 2026

Applicant	:	Abdul Malik son of Sakeen Afzal *Through* Mr. Riaz Ahmed Mir, Advocate.
Respondent	:	The State *Through* Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General Sindh duly assisted by Mr. Deepak Kumar, Advocate.
Date of hearing	:	28.10.2026
Date of order	:	12.11.2026

O R D E R

KHALID HUSSAIN SHAHANI, J. **-** Applicant Abdul Malik seeks pre-arrest bail in a case bearing Crime No. 90 of 2025, Police Station Thatta, registered under sections 320, 279, 337-G and 427 PPC, with section 322 PPC added during investigation. The prosecution alleges that, on 24 March 2025, a speeding dumper collided with a Kia Picanto near Chatto Chand on the Thatta–Hyderabad Road. Muneer Ahmed died at the scene. Shanta Bai and Dharam Das later died during treatment, while Dr. Pooja survived with injuries. The FIR, lodged on 28 March 2025, described the dumper driver as unknown. The investigation subsequently identified the applicant as the alleged driver.

2. Heard learned counsel for respective parties, APG for the State and perused the record. The IInd Additional Sessions Judge, Thatta, declined confirmation of interim bail on 30 July 2025. This Court granted interim protection on 15 August 2025 in Criminal Bail Application No. 2102 of 2025. On 17 December 2025, neither the applicant nor his counsel appeared and no intimation was received. The interim protection was consequently recalled and the application dismissed for non-prosecution. A fresh application for pre-arrest bail following dismissal for non-appearance may be entertained upon a satisfactory explanation for the earlier default. The applicant attributes his absence to previous counsel's failure to communicate the hearing date and asserts that he moved promptly upon learning of the dismissal. The application gives no particulars of the asserted failure of communication, specifies no date of knowledge and identifies no step taken to ascertain the status of the proceedings. The endorsement on the certified copy establishes that it was applied for on 26 March 2026. It does not establish when the applicant learnt of the dismissal or explain his absence on 17 December

2025. The explanation, in these circumstances, is insufficient. Reliance is placed on PLD 2021 SC 886[1] and PLD 2021 SC 894[2]

3. The plea of further inquiry rests on the interval before registration of the FIR, the applicant's subsequent implication, the competing accounts of the collision, the scene and mechanical inspection records, and the completion of investigation. The dumper photograph shows plate No. TLM-641, whereas the Excise verification links its chassis and engine to registration No. TLR-835 in Khair Alam's name. The applicant's claim to last possession in the superdari proceedings and his account of the collision in this application raise distinct evidentiary questions. The Directorate of Transport's verification dated 19 September 2025 records that his HTV/PSV license was genuine and valid on the date of the occurrence, directly bearing on the challan's assertion that he was unlicensed. These matters concern the merits of the accusation and do not explain the earlier default.

4. The diary entry dated 5 January 2026 records confirmation of Khair Alam's pre-arrest bail. The record identifies him as the registered owner and attributes the driving to the applicant. In 2011 SCMR 1227[3], a post-arrest bail case arising out of a fatal motor race, the Supreme Court assessed the plea of consistency by reference to the individual roles and the supporting material. It also held that bail under section 322 PPC is discretionary and left the framing of charge to the trial court. Section 322 prescribes diyat, whereas section 320 carries, in addition to diyat, imprisonment extending to ten years and attracts the prohibitory clause of section 497(1) Cr.P.C. The applicability of those provisions remains for the trial Court to determine.

5. The applicant having failed to furnish a satisfactory explanation for his absence on 17 December 2025, this second application for pre-arrest bail is dismissed and ad interim protection subsisting in this application stands recalled. The observations touching the accusation shall have no bearing on the framing of charge, the trial or any application for post-arrest bail, which shall be considered independently in accordance with law.

J U D G E

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[1] *Shazaib and others v. The State and others*
[2] *Azam Saleem and another v. The State and others*
[3] *Majid Naeem v. The State*