

ORDER SHEET

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-21 of 2025

Muhib Ali vs. The State

Criminal Bail Application No.S-52 of 2025

Suleman Shar and others vs. The State

DATEORDER WITH SIGNATURE OF JUDGE

1. For order on office objection.

2. For hearing of main case.

ORDER

30-07-2025.

Ms. Razia Ali Zaman Patoli, Advocate for the applicants alongwith applicant Muhib Ali (on bail).

Mr. Abdul Hafeez Mari, Advocate for the complainant.

Mr. Ghulam Abbas Dalwani, Deputy Prosecutor General, Sindh.

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Ali Haider 'Ada', J:- Through this single order, I intend to dispose of the aforementioned bail applications arising out of F.I.R. No. 105 of 2024, registered at Police Station Taluka, Mirpurkhas, under sections 302, 337-A(i), 114, 511, 147, and 148, P.P.C. Bail Application No. S-21 of 2025 has been filed by applicant Mohib Ali, wherein he seeks pre-arrest bail. In contrast, Bail Application No. S-52 of 2025 has been moved by applicants Suleman Shar, Dhani Bux, Karamat Ali, and Ismail, through which they seek post-arrest bail. Prior to filing the instant applications, the applicants had approached the learned Sessions Judge, Mirpurkhas, by filing Bail Applications No. 1429 of 2024 and 98 of 2025, respectively. Those applications were entrusted to the learned Additional Sessions Judge-I/MCTC, Mirpurkhas, who dismissed the same.

2. The prosecution case, as set forth in the F.I.R, is that complainant Zamin Ali lodged the same on 04-12-2024 at about 10:30 a.m. at Police Station Taluka Mirpurkhas. He alleged that on 03-12-2024, while he was present at his residence in the village, at around 10:00 p.m., he received a phone call from his brother, Moosa Shar, informing him that Muhammad Ismail, Dhani Bux, Suleman, and Karamat Ali had committed the murder of their nephew, Waheed Ali Shar, on the instigation of Mohib Ali, by leveling false allegations of illicit relations (Karo Kari). Upon receiving this information, the complainant reached village Ghulam Din Shar, where his brothers, Moosa Shar and Babar Ali Shar, informed

him that the above-named accused, at the instigation of co-accused Mohib Ali alias Dado Shar, had held responsible Mst. Kanwal (wife of Karamat Ali) and Waheed Ali of having illicit relations. Thereafter, the accused allegedly strangled Waheed Ali to death inside his house and attempted to murder Mst. Kanwal. However, upon her cries, the complainant's brothers, Moosa and Babar, along with other villagers, intervened and rescued her. It is further alleged that accused Karamat Ali also inflicted a lathi blow on the head of Mst. Kanwal, resulting in injuries. Subsequently, police officials arrived at the scene, took Mst. Kanwal into their protection, and shifted the dead body of Waheed Ali to Civil Hospital, Mirpurkhas. After the post-mortem examination, the dead body was handed over to the legal heirs, and following the funeral rites, the complainant approached the police station and lodged the F.I.R. During the course of investigation, the Investigating Officer submitted the challan before the competent Court. Later, Section 311, P.P.C. was inserted, and a supplementary challan was submitted, placing the accused persons to face trial before the Court of competent jurisdiction.

3. Learned counsel for the applicants contends that the alleged incident is unseen, as there is no eyewitness account forming part of the ocular evidence. It is argued that the names of the applicants have been malafidely implicated in the F.I.R. owing to a prior matrimonial dispute. He further submits that Mst. Kanwal, who sustained injuries in the incident, is in fact the wife of applicant Karamat Ali, and the entire prosecution story is concocted and an afterthought. Hence, the applicants are entitled to the concession of bail. Learned counsel has also placed on record statements in support of her contentions, which are duly taken on record.

4. Conversely, learned counsel for the complainant vehemently opposes the bail applications and submits that a prima facie case of honour killing has been established against the applicants. It is argued that Mst. Kanwal, who was declared as "Kari" along with the deceased, was only saved due to timely intervention by the police, otherwise she too would have been murdered. She received injuries at the hands of the accused, which supports the prosecution version. Learned counsel places reliance on the following precedents: *Shafi Mohammad v. The State* (2017 YLR Note 317), *Saffar and 3 others v. The State* (2003 PCr.LJ 738), and *Karim Bux v. The State* (2000 SCMR 1405).

5. Learned Deputy Prosecutor General has also opposed the grant of bail and supported the impugned orders. He submits that, prima facie, the incident constitutes a case of honour killing and, in such matters, the role of each accused requires careful judicial scrutiny. Upon perusal of the record, it transpires that deceased was murdered through strangulation, and the medical evidence fully corroborates the prosecution version. In support of his submissions, learned State Counsel has placed reliance upon *Rab Nawaz and 2 others v. The State* (2015 PCr.LJ 1531), *Zakir Jaffer v. The State* (2022 PCr.LJ 1242), and *Mukhtiar v. The State* (2024 PCr.LJ 2001).

6. Heard the learned counsel for the respective parties and have carefully perused the material available on record with due care and judicial caution.

7. Prima facie, the case of the applicants does not qualify for any relief either for pre-arrest or post-arrest bail. The record reflects that the ocular account is furnished by multiple prosecution witnesses, namely Babar Ali (brother of Mst. Kanwal), Muhammad Moosa (uncle), and Mst. Kanwal herself, who was declared "Kari." Their statements are mutually corroborative, consistent, and support the prosecution version that the murder of deceased Waheed Ali Shar was committed on the pretext of *Karo Kari* (honour killing). It further appears that Mst. Kanwal, who is the legally wedded wife of applicant Karamat Ali, was also targeted in the same incident. The applicants allegedly attempted to kill her as well, but she survived due to timely intervention by her relatives and arrival of police at the scene. She sustained injuries during the incident. The police later prepared a recovery memo, and Mst. Kanwal was produced before the concerned Magistrate, where she reiterated the same facts, specifically implicating the applicants in the murder of the deceased and the attempt on her life, all committed under the pretext of honour. At this stage, there is sufficient material on record connecting the applicants with the alleged offences. The consistent statements of witnesses, medical evidence, and the sequence of events tend to support the prosecution case. In this regard, guidance may be taken from the authoritative judgment of the Honourable Supreme Court in the case of *Itbar Muhammad v. The State and others* (2024 SCMR 1576), the relevant paras are reproduced as under:

*7. On perusal of record it reflects that this is a case in which one person has lost his life and one person has sustained injuries at the hands of accused persons. Furthermore, the petitioner/accused along with another accused was*

*nominated in the FIR and specific role of firing at the deceased and injured person was attributed to petitioner specifically. P.Ws in their statements have supported the version of the complainant given by him in the FIR. The medical evidence also corroborates the ocular account.*

9. This Court in the case of *Shoukat Ilahi v. Javed Iqbal and others* (2010 SCMR 966) has ruled as under:-

*"6. We have given due consideration to the submissions made and have gone through the material available on record. From the record, we find that the name of the petitioner was mentioned in the F.I.R.; that the motive had been alleged against him; that a specific role of raising lalkara was assigned to him and that it was specifically mentioned that he and his co-accused fired at the deceased, which hit him. The P.Ws. have supported the case in their 161, Cr.P.C. statements which is further corroborated by the medical evidence, as according to the Medical Officer the deceased had six firearm entry injuries*

8. The medical evidence available on record fully corroborates the ocular account furnished by the prosecution witnesses. The nature of the offence, which involves the cold-blooded murder of a young man on account of so-called honour, attracts the punishment of death or life imprisonment, thereby bringing the case squarely within the ambit of the prohibitory clause of Section 497, Cr.P.C. In support of this view, reliance is placed upon the judgment of the Honourable Supreme Court in the case of *Kamran v. The State* (2024 SCMR 1419).

9. The prevailing culture of honour-based violence is deeply problematic, as it often results in fatalities carried out without fear of legal consequences or retribution. Such killings are not merely isolated acts of violence, but rather constitute an institutionalized form of gender-based oppression, where women are punished often by their own family members under the guise of restoring 'honour.' Honour killing represents one of the most extreme manifestations of violence against victims, typically perpetrated by family members, and often justified through social or cultural pretexts that have no basis in law. The Honourable Apex Court unequivocally condemned such acts. The relevant observations of the Honourable Supreme Court in the case of *Muhammad Ali Mahar v. The State* (2024 SCMR 1584) are reproduced below for ready reference:

*16. We have also surveyed and glance over some research-based articles on "Honour Killing" which are very enlightened to the subject and for better understanding, few passages are reproduced as under: -*

*1. Karo kari is defined as an act of murder, in which a woman is killed for her actual or perceived immoral behavior. In Karo Kari if a woman is engaged in some kind of unlawful sexual relationship with a man or if she has refused to submit to an arranged marriage, she is branded as Kari or "black female" and in*

order to cleanse the honor of the man to whom she 'belongs' he received permission to kill her and prove that he has safeguarded his honor by doing so. Whereas the tribal law dictates that the man who is branded karo or "black male" should also be killed but usually that does not happen and the karo has the opportunity to flee, while his family members negotiate with the dishonored family to save his life. Ref: Honor Killings-Reckless Practice of the Culture, Asian Human Rights Commission (2012), [<http://www.humanrights.asia/opinions/AHRC-ETC-010-2012>] .

2. Honor killing is one form of extreme violence perpetrated on women by men... It is called karo kari (literarily: blackened man, blackened woman). It most commonly is a premeditated killing of a girl or woman, committed by her brother, father, or combination of male agnates in the name of restoring what they consider their family's honor by her behavior. The genesis of honor killing in human societies is deeply sedimented in history but has been linked by various scholars with ascendant patriarchal structures. Ref: A Hermeneutic Study of Various Discourses, ProQuest Information and Learning Company (2003), [<https://shareok.org/handle/11244/590>].

3. Honor killings are known as 'Karo Kari' which in literal sense means 'black man and black woman' who deserves exclusion from the community. In other words, it is a homicide of a family member committed by close relatives such as brother, father, husband, or mother of the victim for bringing dishonor upon family or community. Examples of the acts that trigger homicide may include: wanting to marry of their choice, wishing to seek employment, wanting to live according to free will, dressing inappropriately' or in general refusing to give in to the normative standards of behavior set by the local tribe or community. Ref: Rep Opinion, Masland Press (2021), [<https://www.sciencepub>].

4. Honor killings have been pervasive in traditional societies where woman symbolizes the "honor" of the family. Generally, a woman is killed by male relative (usually her father, brother, or husband) for engaging in or being suspected of committing illicit sexual acts. Though family honor rests upon the behavior of family members, women provide a convenient scapegoat in the face of such subjective qualifications as 'public morality', 'decency' and 'religion'.... Honor killing aims to cultivate fear in women to ensure that they blindly and obediently observe the miles set by male members of their family do not raise their voice against marital violence and abstain from pursuing their Islamic and legal rights..... This practice of honor killing stems from the dual conception of women; women as repositories of honor and women as property. In cases of honor killing, if a woman is accused of having an illicit relationship or if she seeks to choose her own partner, which is considered against her tribe's custom and tradition, she loses her objective value. Ref: Journal of Positive School Psychology (2022), [<https://journalppw.com>].

5. Honor killings, or murders to avenge and restore 'shame', have long been a feature of deeply conservative, traditionalist and tribalistic community. The culture is highly problematic because it leads to fatalities without fear of consequence or retribution, creating a sense of lawlessness in society. More than that, it is a ritual that punishes women more than men, with deaths of the former twice that of the latter. The Human Rights Commission of Pakistan (HRCP), one of the civil society groups attempting to tackle this menace, highlighted the dangerous interplay between archaic traditions and modern-day power struggles.... Pakistan's 'Manly' Tradition of Settling Scores of 'Shame' via Blood of Women, Friday times (2023), [<https://thefridaytimes.com/18-Sep-2023>].

10. It is a matter of common observation that incidents of honour killing are repeatedly reported in our society. In many such cases, no witness comes forward to depose against the accused, as the perpetrators and victims often belong to the same family or community, leading to suppression of evidence in order to shield the culprits. However, in the instant case, the complainant party, who are close relatives of both the deceased and the accused, came forward and, with creditable strength and moral courage, reported the incident and recorded their statements. Such matters, therefore, must be handled with great care and judicial caution, particularly in view of the discretionary nature of the relief sought. In this regard, reliance is placed upon the case of *Mukhtiar v. The State* (2024 P Cr. L J 2001), wherein it was held that

*7. The judiciary can play a crucial role in eliminating honour killings by ensuring that existing laws against honour killings are rigorously enforced, with no leniency or impunity for perpetrators. Strict enforcement would contribute significantly to the eradication of honour killings and the promotion of justice and gender equality. However, this remains a complex and persistent problem that requires ongoing efforts to change societal attitudes and protect vulnerable individuals. The Government of Pakistan on its part, in the year 2016, enacted the Anti-Honor Killing (Criminal Laws Amendment) Act, which closed legal loopholes that allowed perpetrators to escape punishment by seeking forgiveness from the victim's family. Amendments to the Pakistan Penal Code were introduced to tighten the legal framework and increase penalties for honour killings in Pakistan.*

*8. I am aware that the evidence in the case is weak if one treats a case of honour killing on the same pedestal as other crimes. Perhaps, the applicant would have made out a case for a grant of bail in a crime of a different nature however, in my humble view, cases of honour killings are a category which requires to be adjudicated with a different yardstick. I have therefore shown less leniency in the present case while deciding this bail application as I am of the opinion that there is circumstantial evidence against the applicant, albeit weak, yet sufficient to deny him bail.*

11. It is a settled principle of law that pre-arrest bail is an extraordinary relief which cannot be granted unless the person seeking such relief satisfies the conditions laid down under Section 497(2), Cr.P.C., and establishes that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, and that the case calls for further inquiry into his guilt. In this regard, reliance is placed on the judgments of the Honourable Supreme Court in case of *Abdul Aziz Memon v. The State* (2020 SCMR 313), *Gulshan Ali Solangi and others v. The State* (2020 SCMR 249), *Muhammad Sadiq and others v. The State and another* (2015 SCMR 1394). Furthermore, in the case of *Rana Abdul Khaliq*

*v. The State and others (2019 SCMR 1129)*, the Honourable Supreme Court elaborated that:

*2. Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation. Ever since the advent of Hidayat Ullah Khan's case (PLD 1949 Lahore 21), the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of mala fide, ulterior motive or abuse of process of law, situations wherein Court must not hesitate to rescue innocent citizens; these considerations are conspicuously missing in the present case. The case referred to by the learned Judge-in-Chamber unambiguously re-affirms above judicial doctrine and thus reliance being most inapt is unfortunate to say the least.*

12. In view of the foregoing discussion and upon careful consideration of the material available on record, I am of the considered opinion that the applicants/accused have failed to make out a case for the grant of pre-arrest and post-arrest bail. Accordingly, the instant bail applications stand dismissed. Consequently, the interim pre-arrest bail earlier granted to applicant/accused Mohib Ali vide order dated 28-01-2025 is hereby recalled.

**JUDGE**

*\*Saleem\**