

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS.

Criminal Bail Application No.S-207 of 2025

Applicant: Bhagwano @ Bhagwan Das, Through
Mr. Bhooro Bheel, Advocate.

Respondent: The State through Mr. Neel Parkash,
Deputy Prosecutor General, Sindh.

Complainant: Shabeer Ahmed(Present in person)

Date of hearing: **19.08.2025**

Date of Order: **19.08.2025**

O R D E R.

AMJAD ALI SAHITO, J:- Through this bail application, the applicant/accused above named seek his post-arrest bail in Crime No.49 of 2025, under sections 460, 302, 394 & 34 PPC, registered at P.S Kot Ghulam Muhammad, after his bail plea was declined by the learned Sessions Judge, Mirpurkhas.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused has contended that the applicant is innocent and has been falsely implicated in the instant case with mala fide intent. It is submitted that the FIR was lodged after an unexplained and inordinate delay of thirteen (13) days, which casts serious doubt on the veracity of the allegations. It is further argued that the name of the applicant is not mentioned in the FIR and it was lodged against unknown person. Learned counsel further submits that identification under a single bulb at 12:40 A.M is

highly doubtful. It is further submitted that the applicant has filed 22A&B Cr.P.C application against police officials, therefore, the police due to personal grudge falsely implicated the applicant/accused in this case. It is further submitted that the applicant/accused was not available at the scene of the offence. The learned counsel further argued that the case has been submitted as challan in "A" class, which signifies that even the investigation agency has concluded that the real culprits are untraced. It is further submitted that the applicant/accused was arrested on 17.07.2025 in presence witnesses who are police officials. Learned counsel maintains that the complainant has falsely implicated the applicant/accused with ulterior motives, and as such, the applicant is entitled to the concession of bail.

4. On the other hand, learned D.P.G argued that the complainant identified the applicant/accused in presence of learned Magistrate and the CDR of the applicant/accused is sufficient material to connect the applicant/accused with the commission of offence, so far as the delay in lodgment of the FIR is very much explained and opposed for grant of bail.

5. Heard and perused.

6. From the perusal of the record, it transpires that on the date of incident, three unidentified persons unlawfully entered the house of the complainant. Upon awakening, the family members of the complainant offered resistance, whereupon one of the accused fired upon Maqsood Ali, causing him a firearm injury. Thereafter, the accused persons managed to flee from the scene. The injured Maqsood Ali was initially shifted to Kot Ghulam Muhammad Hospital, from where he was referred to Civil Hospital Hyderabad. Due to the deterioration of his condition, he was subsequently shifted to Jinnah Hospital, Karachi, where on 24.05.2025 he succumbed to the injuries. The dead body was then brought to Taluka Hospital, Kot Ghulam Muhammad, where post-mortem examination was

conducted. After the funeral rites of the deceased, the complainant lodged the FIR against the unknown accused persons. Since the accused persons remained untraceable, the Investigating Officer disposed of the case under "A-Class."

7. Furthermore, after the lapse of some time, the accused persons committed a robbery at the house of one Khalil. In his further statement, the complainant disclosed the name of the present applicant/accused and identified him upon his production before the learned Magistrate. However, it is pertinent to note that when the accused was produced for the purpose of identification parade, the complainant was already present, and the requisite procedural formalities were not observed by the Investigating Officer. Consequently, the learned Magistrate declined to conduct the identification parade. Nevertheless, the complainant apprised both the learned Magistrate and the Investigating Officer that the said accused was indeed the real perpetrator of the offence.

8. The learned counsel for the applicant has, however, contended that there is delay in lodging of the FIR. In this regard, it is observed that the FIR was initially registered against unknown accused persons, therefore, no element of mala fide on the part of the complainant is discernible. Moreover, the learned counsel for the applicant/accused has not been able to point out any ill will or mala fide attributable to the complainant.

9. The complainant, Shabeer, who is present in Court, has categorically stated that he identified the accused in the light of a bulb, affirmed the contents of the FIR, and maintained that the accused persons are indeed involved in the commission of the present offence. The Investigating Officer, also present in Court, has submitted that the CDR of the applicant/accused

prima facie connects him with the commission of the crime.

10. The offence with which the applicant stands charged squarely falls within the prohibitory clause of Section 497, Cr.P.C., and no mala fide or ill motive on the part of the complainant has been alleged by the applicant.

11. It is a settled principle that at the stage of bail, only a tentative assessment of the material available on record is to be undertaken. Prima facie, there exists sufficient incriminating material to connect the applicant with the alleged offence, which, on the face of it, is of a grave and heinous nature.

12. In view of the above and as the learned counsel for the applicant has failed to make out a case for the grant of bail under Subsection (2) of Section 497, Cr.P.C., the post-arrest bail application filed by the applicant/accused is hereby dismissed.

13. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE

Adnan Ashraf Nizamani