

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

Criminal Bail Application No.S-139 of 2025

Applicants: Fajurddin, Zafar Khan and
Muhammad Adil through Mr. Afzal
Karim Virk, Advocate.

Respondent: The State through Mr. Ghulam Abbas
Dalwani, Deputy Prosecutor General, Sindh.

Complainant: Abdul Rehman (present in person) through
Mr. Rao Faisal Ali, Advocate.

Date of hearing: **20.08.2025**

Date of Order: **20.08.2025**

O R D E R.

AMJAD ALI SAHITO, J:- Through this bail application, the applicants/accused above named seek their pre-arrest bail in Crime No.16 of 2025, under sections 302, 337-(ii), 147, 148 & 149 P.P.C, registered at P.S Mirwah Gorchani, after their bail plea was declined by the learned Additional Sessions Judge-I/MCTC, 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. Per learned counsel, the applicants/accused are innocent and have falsely been implicated in the instant case with mala fide intent. It is submitted that the FIR was lodged after an unexplained and inordinate delay of seven hours, which casts serious doubt on the veracity of the allegations. Learned counsel further submits that the complainant party have attacked upon the applicant party and murdered one Ali Nawaz and caused

fire shot injury to accused Sarfaraz, who is under treatment and the complainant registered the instant FIR with concocted story, ulterior motive and malafide intention. It is further argued that the complainant registered the instant FIR only to make the counter version. Learned counsel further submitted that no specific role of causing injury to deceased has been assigned to the present applicants/accused. The complainant has implicated the family members including deceased Ali Nawaz, who was murdered by the complainant party and caused fire shot injury to accused Sarfaraz. It is further submitted that there is counter case between the parties and the complainant party is aggressor. Learned counsel has further argued that only a general role of firing had been ascribed to the accused without any specification qua kind of weapon. The deceased did not receive any gunshot injuries from the present applicants/accused. Learned counsel further argued that the applicants/accused no more required for investigation and they are entitled for confirmation of interim pre-arrest bail. Lastly he prayed for confirmation of instant bail application. In support of his contention he has place his reliance on case laws reported in the case of Attaullah v. The State (2020 SCMR 451), Gul Nawab v. The State (2022 SCMR 547) and Suleman Shah v. The State (2021 MLD 392) [Balochistan].

4. Learned counsel for the complainant as well as learned D.P.G have vehemently opposed the grant of pre-arrest bail to the applicants/accused and they have further argued that the applicants/accused are specifically nominated in the FIR, who shared their common objection and attacked upon the complainant party, resultantly one Sajan has been brutally murdered by the hands of the applicants/accused. They further argued that the applicants/accused are not entitled to the extraordinary relief of pre-arrest bail and prayed for its dismissal.

5. Heard and perused.

6. Admittedly, both parties have lodged First Information Reports (FIRs) against each other. The complainant, namely Abdul Rehman, registered FIR

No.16/2025 (the present case) under Sections 302, 337(ii), 147, 148, and 149, Pakistan Penal Code (P.P.C.), at Police Station Mirwah Gorchani. Conversely, complainant Rashid Ali registered FIR No.17/2025 under Sections 302, 324, 337-H(ii), 147, 148, and 149, P.P.C.

7. The prosecution case, as set forth, is that on the day of the incident, all accused persons nominated in the FIR, being duly armed with repeater guns, Kalashnikovs, and pistols, appeared at the place of occurrence and indiscriminately fired upon the complainant party. The specific role attributed to accused Sarfaraz is that he fired from his repeater at the deceased Sajan, who, as a consequence thereof, lost his life.

8. I have also examined FIR No.17/2025, wherein the complainant admitted that on 29.04.2025 he, along with his uncle Zaffar (the present applicant), Sarfaraz, and Ali Nawaz, was present at their land. Thus, the presence of the applicants at the place of incident stands admitted by the complainant of FIR No.17/2025. Furthermore, the names of the applicants transpire in the FIR, wherein it is alleged that they, being duly armed with Kalashnikovs, repeaters, and pistols, and sharing a common intention and common object, appeared at the place of incident and facilitated co-accused Sarfaraz, who fired upon Sajan, resulting in his death while being transported to the hospital. It is further alleged that the present applicants/accused also resorted to indiscriminate firing upon the complainant party. The ocular account of the incident receives corroboration from the medical evidence, and the statements of the prosecution witnesses/eyewitnesses, recorded under Section 161, Cr.P.C., lend support to the complainant's version.

9. As regards the plea advanced by the learned counsel for the applicants, that since counter cases have been registered by both parties against each other, the applicants are thus entitled to the concession of pre-arrest

bail, it is sufficient to observe that the mere filing of counter cases or cross cases, without any element of genuineness, cannot by itself constitute a valid ground for the grant of bail. It is a settled principle of law that no individual possesses the right to unlawfully deprive another of his life, as the right to life is the most fundamental and sacred right guaranteed to every human being. The sanctity of human life cannot be subjected to compromise on account of personal vendettas, social pressures, or other extraneous considerations, for once an innocent life is extinguished, it cannot be restored. In the both cases, it is an admitted position that two persons lost their lives on account of a trivial dispute, which reflects the gravity of the allegations and militates against the grant of the extraordinary relief of pre-arrest bail.

10. At bail stage, only tentative assessment is to be made. Sufficient material is available on the record to connect the applicants/accused with the commission of alleged offence. The offence with which the applicants stand charged fall within the prohibitory clause of Section 497 Cr.P.C. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicants even otherwise they have shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakis [2019 S CMR 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

"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..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations

of malafide, ulterior motive or abuse of process of law."

11. The learned counsel for the applicants has failed to establish the case for the confirmation of interim pre-arrest bail. Accordingly, the interim bail already granted to the applicants/accused is hereby **dismissed**. The interim bail granted to the applicants vide order dated **29.05.2025** is hereby **recalled**.

12. 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