

THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1651 of 2024

Crl. Bail Application No. 370 of 2025

Applicant : Rehan in Cr.B.A.No.1651/2024
through Mr. Arshad Ahmed Metlo,
advocate for applicant

Applicant : Faizan Habib in Cr.B.A.No.370/2025
through Barrister Ahmer Jamil Khan
a/w Mr. Muhammad Arif Khan,
advocate

Complainant : Muhammad Ahmed
through M/s. Muhammad Munsif
Jan and Muhammad Imran,
advocates

Respondent : The State
through Mr. Muhammad Raza,
Deputy Prosecutor General

Date of hearing : 4th March, 2025

Date of Order : 4th March, 2025

ORDER

Jan Ali Junejo, J.-- The present Criminal Bail Applications have been filed on behalf of the Applicants/Accused, who are seeking post-arrest bail in connection with a case stemming from FIR No.172 of 2022, registered at P.S. Gabol Town, Karachi, under Sections 302/397/34, P.P.C. The Applicants/Accused initially approached the Court of Sessions by filing Bail Applications Nos.373 of 2023 (Applicant Faizan) and 801 of 2023 (Applicant Rehan Khan), which were subsequently dismissed by the learned Trial Court vide Order dated: 08-03-2023 and Order dated: 04-03-2024.

2. The facts relevant to the present criminal bail application are as follows:

“On 17/10/22 at 1815 hours, Muhammad Ahmed and his cousin, Muhammad Hanif, were returning from Meezan Bank, Nagan Chowrangi, after withdrawing 10 lakh rupees (intended for family use). While near Shaheen Bakery, Sector 15B, Buffer Zone, two unidentified men (30-35 years old, dark complexion, Urdu-speaking, on an unregistered motorcycle) attempted to rob them. The assailants fired a shot, kicked their motorcycle (No.KFX-5686), causing a crash. Hanif sustained fatal head and jaw fractures, leading to his death at Abbasi Shaheed Hospital. During the attack, 350,000 rupees (scattered during the fall) were stolen, while 650,000 rupees (retained in a cloth) were recovered”.

3. The learned counsel for the Applicant Rehan Khan has argued that the applicant/accused has been falsely implicated in the present case with no connection to the alleged incident, as the police have acted with malafide intention and ulterior motives. He further contends that no recovery has been made from the applicant, and the alleged murder weapon has been falsely planted. He asserts that the co-accused has already been granted bail, making the applicant entitled to the same benefit on grounds of consistency. He maintains that the FIR was lodged with an unexplained delay, casting serious doubt on the prosecution’s case. Additionally, he highlights that the applicant’s name and description are absent from the FIR, further weakening the allegations. He submits that the applicant has been wrongly involved in a blind murder case to create an impression of efficiency by the police. He argues that

the co-accused allegedly fired in the air, demonstrating no intent to kill, while the FIR suggests the deceased succumbed to road injuries, making Section 302 PPC inapplicable. He further states that the applicant, a real estate businessman, has been falsely framed due to his refusal to pay a bribe. He contends that statements made in police custody hold no legal value under Articles 38 and 39 of Qanoon-e-Shahadat. Moreover, he asserts that the identification parade is tainted as the IO improperly exposed the applicant's face to the complainant beforehand. He also argues that the complainant failed to describe the currency notes allegedly involved, adding to the doubts, which should benefit the accused. Lastly, he pleads that the applicant has been in custody for one and a half years, causing financial distress to his family, warranting bail on humanitarian grounds. Lastly, the learned counsel prayed for grant of bail to the Applicant.

4. The learned counsel for the Applicant Faizan Habib has argued that the Applicant/Accused is a law-abiding citizen with no prior criminal record and has been falsely implicated in the present case out of malice and ulterior motives. He further contends that the Applicant was not named in the FIR, no overt act has been attributed to him, nor was any description or huliya mentioned at any stage of the prosecution's case. He submits that there are glaring contradictions in the FIR and the prosecution's story, as the complainant initially failed to recall the looks and description of the alleged culprits, yet, after four months, suddenly claimed to recognize the accused, rendering the identification parade highly doubtful. He states that while the complainant alleged that two Urdu-speaking individuals committed the offense, the charge sheet implicates four non-Urdu-speaking persons, making this a case of further inquiry. He asserts that the Applicant has been implicated by the SHO

due to personal grudge and greed and has no connection to the alleged crime except for having a bank account at the same branch. He maintains that mere heinousness of an offense is insufficient to deny bail and that the fundamental right to a fair trial under Articles 4, 9, and 10A of the Constitution must be upheld. He emphasizes that no incriminating recovery has been made from the Applicant, who has been languishing in jail since 11/2/2023 without any witness examination. He further contends that there is no risk of absconding or tampering with evidence, and prolonged incarceration without trial amounts to punishment before conviction. He submits that until proven guilty, the Applicant must be presumed innocent, and any doubt must benefit the accused. He concludes that in light of these circumstances, the Applicant is entitled to the concession of bail as per the established principle that “bail, not jail” is the norm. Lastly the learned counsel has prayed for grant of bail to the Applicant. The learned counsel has relied upon the case laws reported in 1.2012 P.Cr.L.J. 1022; 2.2012 YLR 1603; 3.PLD 2012 Sindh 218; and 4.2024 SCMR 28.

5. The learned counsel for the Complainant has argued that bail must be denied as the prosecution has established a *prima facie* case under Sections 302 (murder) and 397 (armed robbery) of the PPC, backed by irrefutable evidence including CCTV footage, geofencing data, and CDR records placing the Applicants at the crime scene (Meezan Bank, North Karachi), coupled with the recovery of police uniforms, counterfeit IDs, weapons-related documents, and a motorcycle from Faizan Habib’s residence. He further contends that the Complainant’s identification of the Applicants during court-supervised identification parades—conducted in the presence of a Judicial Magistrate—leaves no doubt about their involvement, while Faizan’s deliberate shifting to Balakot to evade arrest

underscores his high risk of absconding. He argues that the severity of the charges, punishable by death or life imprisonment, and the Applicants' potential to intimidate witnesses or endanger public safety—given their use of police disguises to commit crimes—render bail unjustifiable. Additionally, he asserts that procedural objections, such as delays in FIR registration, hold no merit at this stage, as the prosecution has met the threshold of demonstrating guilt. He concludes that societal interest in preventing grave crimes, ensuring trial integrity, and deterring fugitive behavior necessitates the refusal of bail to keep the Applicants in custody until trial. Lastly, the learned counsel for the Complainant prayed for dismissal of bail of the Applicants.

6. The learned Deputy Prosecutor General opposes the bail application, advancing the following contra arguments: He argues that the Applicants are accused of committing heinous offenses under Sections 302, 397, and 34 of the Pakistan Penal Code, which involve murder and robbery with grievous consequences, warranting strict judicial scrutiny. He further contends that substantial evidence, including witness statements and forensic findings, establishes their involvement in the crime, making their bail unjustifiable. He asserts that the identification of the Applicants was conducted lawfully and supports their connection to the offense. He maintains that the brutal nature of the act, resulting in the victim's death, demonstrates a clear common intention to commit robbery and violence. He emphasizes that granting bail poses a serious risk of absconding, tampering with evidence, or influencing witnesses, which could compromise the trial process. He submits that mere delay in trial proceedings does not justify bail, especially in a case of such grave nature. He highlights that in similar cases, courts have consistently denied bail to

prevent setting a precedent that undermines the justice system. Lastly, he prays for the dismissal of the bail applications of both Applicants in the interest of justice.

7. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused as well as the learned Deputy Prosecutor General for the State. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. An examination of the case record reveals that the allegations against the Applicants pertain to a violent robbery that resulted in the loss of life. The record further indicates that separate identification parades were conducted before the learned Judicial Magistrate, during which the Complainant correctly identified both Applicants as the actual culprits. Additionally, it has been established that Applicant Faizan Habib was identified through CCTV footage and geofencing analysis. When Faizan Habib learned that Investigating Officer PI Muhammad Ashraf Dahri planned to apprehend him, he fled to his hometown, Balakot. However, he was later arrested in a separate case registered under Section 23(1)(a) of the Sindh Arms Act, 2013. Consequently, the Investigating Officer took him into custody in connection with the present case as well. It is also crucial to emphasize that Applicant Rehan Khan, who had been evading authorities, was apprehended in two distinct cases:

1. **FIR No. 535 of 2022** under Section 397 of the Pakistan Penal Code (PPC), and
2. **FIR No. 636 of 2022** under Section 23(1)(a) of the Sindh Arms Act, 2013.

Both cases were registered at the Bilal Colony Police Station in Karachi. Following these arrests, the Investigating Officer (I.O.) handling the current case subsequently arrested him in connection with the present matter as well. During the course of the investigation, it emerged that Applicant Faizan Habib had been impersonating a police officer while committing offenses. A subsequent police search led to the recovery of two police uniforms, two police identity cards – one for an Assistant Sub-Inspector (ASI) of PQR and another for a Police Constable of KPK – a photocopy of an arms license from KPK, and a motorcycle bearing registration number SBD-2911 from his residence. Furthermore, photographs of Faizan Habib in police uniform have been placed on record. The Investigating Officer gathered the Call Detail Record (CDR) data of the accused individuals, which confirmed their location near Meezan Bank’s North Karachi Branch during the incident and revealed their ongoing communication with an individual named Muhammad Asif Son of Muhammad Ali (Co-accused). Furthermore, the I.O. obtained CCTV footage from the same bank branch, which played a pivotal role in identifying the true perpetrators. Although the case initially lacked clear suspects (termed a “blind murder”), the Investigating Officer’s persistent efforts led to its resolution and the uncovering of critical facts. The records indicate that the charges in this case fall under Sections 302 (murder) and 397 (armed robbery) of the Pakistan Penal Code (PPC), both of which entail severe punishments, such as the death penalty or life imprisonment. The severity of these legal consequences, combined with the substantial evidence implicating the accused, significantly diminishes the likelihood of bail being granted in this matter. The prosecution has presented substantial incriminating material to establish a prima facie case against the Applicants. The Complainant’s statement, the identification proceedings,

and other circumstantial evidence strongly link the Applicants to the present offence. At this stage, the objections raised concerning the identification parade and the delay in lodging the FIR do not appear to be of such significance as to warrant the granting of bail. Regarding the argument advanced by counsel for the Applicants concerning undue delays in the trial process, this contention holds no legal weight under the present circumstances. The severity of the charges—which involve the gravest conceivable harm, namely the unlawful deprivation of human life—necessitates rigorous adherence to due process over expediency. Moreover, the Applicants have failed to provide documented evidence supporting their allegations of undue prosecutorial delay, rendering their claims unsubstantiated in both fact and law. Additionally, they have not met the requisite threshold for provisional release, as no evidence has been presented to indicate extraordinary or irreversible hardship arising from their continued detention. In the absence of such justification, the court finds no basis to deviate from established judicial protocols governing cases of this magnitude. Upon thorough examination of the case's factual matrix and evidentiary record, it is evident that the Applicants, Rehan Khan and Faizan Habib, are *prima facie* linked to the present offenses. The evidence presented sufficiently implicates them in offences falling under the restrictions of Section 497(1) of the Criminal Procedure Code (Cr.P.C.), which bars bail in such instances. The trial Court's Orders to deny bail, being meticulously reasoned and legally sound, warrants no judicial intervention. This aligns with the precedent set in *Hilal Khattak v. The State and Another* (2023 SCMR 1182), wherein the Apex Court observed that: *"The incident is further supported by the footage recorded on the CCTV camera of a neighbouring house. Sufficient incriminating material is thus available on the record of the case to connect the petitioner*

with the commission of the alleged offences. The findings of the courts below in this regard are not perverse or arbitrary, which could have justified interference by this Court. The petitioner, therefore, has no case for grant of bail under subsection (2) of section 497, Cr.P.C."

8. In view of the preceding legal analysis and rationale, the bail applications filed on behalf of the Applicants (accused) are dismissed, as they lack substantive grounds to warrant judicial relief. It is further emphasized that the observations made in this order are solely for the purpose of deciding this bail application and shall not influence the merits of the case during the trial proceedings.

JUDGE