

THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 362 of 2025

Applicant : Muhammad Tariq
through Mr. Mallag Assa Dashti,
advocate.

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

Complainant : Muhammad Jawaid
Mr. Mujeer Ali Mangi, advocate a/w
complainant

Date of short order : 11th March, 2025

Date of reasons : 17th March, 2025

ORDER

Jan Ali Junejo, J.-- The applicant/accused has filed the present criminal bail application seeking post-arrest bail in connection with FIR No. 343 of 2022, registered at P.S. Malir Cantt., Karachi, under Section 302/109/34 of the Pakistan Penal Code (PPC). Initially, the applicant/accused approached the Sessions Court, which was transferred to the Court of learned VIIIth Additional Sessions Judge, Malir, Karachi, through Bail Application in Sessions Case No.2028 of 2023, which was dismissed by order dated 31.01.2025.

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

“Muhammad Jawed, a resident of Malir Cantt, Karachi, reported that on August 3, 2022, at around 11:15 PM, he sent his elder brother, Muhammad Nawaz (48), home on a motorcycle (Honda 125, red, KGL-4337) from his shop near Safoora Saima Residency. At approximately 1:30 AM on

August 4, 2022, the police informed him that Nawaz had been shot and killed near Premium Villas and was taken to Jinnah Hospital, where a postmortem confirmed four bullet wounds, including a head injury. Jawed suspected that Nawaz's murder was linked to his second marriage with Mst. Kulsoom Bhatti in 2016, which had caused tensions with her family, leading to legal disputes and a prior murder attempt on Nawaz in 2020. Based on past threats, Jawed accused Kulsoom's relatives—Tariq and Ziaullah (sons of Muhammad Ramzan), Sadiq (son of Jhandi Khan), Ali Ahmed, and Ali Hassan (sons of Nazir Ahmed)—along with unidentified accomplices, of orchestrating the killing”.

3. The learned counsel for the applicant argues that the applicant/accused is innocent and has been falsely implicated by the complainant with malafide intent and ulterior motives. He further contends that the site inspection memo, signed by the complainant, states that the inspection was conducted on his pointation on 04-08-2022 at 7:45 AM, whereas the complainant later claimed that he had taken the body to Sahiwal and only returned around 08/09-08-2022, creating contradictions in his statements. He also contends that the complainant is not an eyewitness and has implicated the accused based on mere presumption, casting serious doubt on the prosecution's case and necessitating further inquiry. He argues that there is an unexplained one-day delay in lodging the FIR, which makes the prosecution story doubtful, and that the Call Data Record (CDR) establishes the accused's presence in GT Road, District and Tehsil Sahiwal, on 03-08-2022, proving he was not in Karachi at the time of the alleged incident. He emphasizes that the accused has been in custody for over 2.5 years, with only the complainant examined so far, indicating no likelihood of an early trial, making indefinite detention unjust. He also points out that the deceased's widow,

Mst. Kulsoom, has filed a criminal petition under Section 22-A & B, Cr.P.C (No. 880/2024), accusing the complainant of falsely implicating her family while harboring an interest in her late husband's property, and since this aspect has not been investigated, the case warrants further inquiry as per PLD 2018 S.C 595. He contends that no specific role has been attributed to the accused by the complainant and that the case is based purely on presumptions. He further asserts that the complainant's entire story is fabricated, fictitious, and lacks credibility, that no incriminating material or recovery was made from the accused at the time of arrest, and that the accused has remained in custody for over two years without a conclusive trial, making his prolonged detention unjustified. In light of these arguments, he prays for the grant of bail, emphasizing the presumption of innocence and citing legal precedents supporting bail in such cases.

4. The learned counsel for the complainant argues The learned counsel for the complainant contends that the applicant/accused is directly implicated in the FIR with specific allegations of committing the murder of Muhammad Nawaz, supported by prior enmity and threats issued by the accused and his associates. He argues that the accused had a clear motive to eliminate the deceased due to long-standing disputes arising from the deceased's second marriage, previous legal cases, and threats made by the accused's family. He further submits that the delay in lodging the FIR is well explained, as the complainant was occupied with the burial and legal formalities of the deceased. Additionally, he emphasizes that the complainant's statement and circumstantial evidence, including the nature of injuries sustained by the deceased, point toward the involvement of the accused. He prays that in light of the gravity of the offence, which falls under

the prohibitory clause of Section 497 Cr.P.C, the bail application of the accused be dismissed.

5. The learned Deputy Prosecutor General (DPG) vehemently opposes the bail application, arguing that sufficient material is available on record connecting the accused with the commission of the offence. He contends that the allegations against the accused are serious in nature, involving a brutal murder committed in a well-planned manner. He further argues that the Call Data Record (CDR) alone does not exonerate the accused, as mere presence in another city does not conclusively establish innocence, and the possibility of his involvement through hired individuals or accomplices cannot be ruled out. He submits that the ongoing trial has already seen substantial progress, and granting bail at this stage would affect the prosecution's case and possibly lead to witness tampering. Given the seriousness of the offence and the available evidence, he prays that the bail application be dismissed in the interest of justice.

6. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused, as well as the learned Additional Prosecutor General. A comprehensive review of the case file reveals that the Complainant implicated the Applicant and co-accused based on suspicion, despite not witnessing the Applicant's physical participation in the alleged crime. In the defense's submission, learned counsel provided Call Data Records (CDRs) showing the Applicant's location in Sahiwal during the incident. It is also admitted by the learned counsel for the complainant that on the day of incident applicant/accused was not present as he was in Sahiwal. The prosecution's claim that the Applicant coordinated with co-accused through telephonic communication during the alleged incident will be subject to determination during trial proceedings. Notably, there

is a discrepancy in the arrest timeline: police records state the arrest occurred on 15.09.2022, while the Complainant asserts it took place on 18.09.2022. Additionally, the parties share a documented history of enmity, primarily stemming from matrimonial disputes, which previously led to criminal litigation. For instance:

- The deceased, Muhammad Nawaz, lodged FIR No. 16/2020 (under Sections 365/506/34 PPC) at P.S. Malir Cantt., Karachi against the Applicant and others, though the Applicant was listed in Column No. 2 after Mst. Kulsoom Bhatti (Nawaz's wife) did not implicate Applicant in her Section 164 Cr.P.C. statement.
- Mst. Kulsoom Bibi also lodged FIR No. 140/2016 (Sections 457/506-B/337-A(i)/34 PPC) against individuals, including Ziaullah and others. This case was later resolved through compromise under Sections 345(2) and 345(6) Cr.P.C. on 13.03.2024, indicating prior disputes were settled amicably.

Given these circumstances—including the CDR evidence, unresolved conspiracy allegations, contradictory arrest accounts, and a history of conflicts—sufficient grounds for further inquiry under Section 497(2) Cr.P.C. warrant granting bail. This aligns with the precedent in *Muhammad Arshad v. The State (2019 SCMR 572)*, wherein it was observed: “He, however, states that as per police investigation, the petitioners are responsible to the extent of conspiracy/abetment. Nevertheless, learned Additional Prosecutor General assisted by the learned counsel for the complainant was not able to point out any evidence from the record regarding conspiracy/abetment by the petitioners. The worth and evidentiary value of the plea of alibi taken by the petitioners and their

involvement in this case to the extent of conspiracy/abetment shall be determined by the learned trial Court, of course, after recording evidence of the parties. At the moment, the case against the petitioners calls for further inquiry within the ambit of section 497(2), Code of Criminal Procedure”.

7. In consideration of the foregoing analysis and grounds, the bail application submitted on behalf of the Applicant is hereby **granted**. The Applicant shall be released on post-arrest bail subject to his furnishing of a solvent surety amounting to Rs. 200,000/- (Two Hundred Thousand Rupees) and a Personal Recognizance (P.R.) bond in the like amount to the satisfaction of the learned Trial Court.

These requirements must be completed to the satisfaction of the trial Court, which will verify the validity and adequacy of the surety bond. It is expressly clarified that the observations and conclusions rendered in this order are strictly limited to the disposal of the present bail application and do not constitute an opinion on the merits of the case. These remarks shall not be interpreted as prejudicing the rights, claims, or defenses of either party – prosecution or defense – during the trial proceedings. The trial Court shall adjudicate the matter independently, uninfluenced by any findings articulated herein, and solely based on evidence adduced and legal principles applicable at the appropriate stage.

8. Above are the reasons for the short order dated 11.03.2025 in terms of which the applicant was admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs.200,000/- and a P.R. bond in the like amount to the satisfaction of the learned Trial Court.

JUDGE