

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No.3029 of 2024

Applicant : Aslam S/o Abdul Shakoor  
through Mr. Dur Muhammad Mallah,  
Advocate

Complainant : Muhammad Moosa S/o Moj Ali  
through Mr. Muhammad Rehan, Advocate

Respondent : The State  
Mr. Qamar Din, APG

Date of hearing : 06.02.2025

Date of order : 06.02.2025

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.832/2024 for the offence under Sections 302/34 PPC of PS SSHIA, after his bail plea has been declined by the Addl. Sessions Judge-I / (MCTC), Malir Karachi vide order dated 04.12.2024.

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

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that the applicant was present at the place of incident but no specific role has been assigned against him; that the only role is assigned against the accused Younus, who has made straight fire upon the deceased, otherwise the present applicant has no role in the commission of offence; that the applicant is in jail and he is no more required for further investigation. Lastly, he prays for grant of bail to the applicant.

4. On the other hand, learned counsel for the complainant vehemently opposes for grant of bail on the ground that name of the applicant appears in the FIR and Section 34 PPC is very much applicable as the present applicant also shared his common

intention with the main accused Younus. Learned APG also opposes for grant of bail.

5. Heard the parties and perused the material available on record.

6. Admittedly, the name of the applicant does not transpire in the FIR. Only mere presence of the applicant has come on record; however, he has not caused any injury to the deceased nor any specific role has been attributed against him to believe that as to how he has involved in the commission of alleged offence. In the case reported as **1996 SCMR 1125 (Mumtaz Hussain and 5 others vs. The State)**, the Hon'ble Supreme Court has granted bail to the accused despite allegedly armed with deadly weapons only caused simple injuries to some of the prosecution witnesses. Further, it is yet to be seen as to how the present applicant has shared common intention with main accused Younus when evidence will be recorded. The applicant is in jail and he is no more required for further investigation. His further detention will not improve the case of prosecution. Reliance is place in an unreported case of the Hon'ble Supreme Court of Pakistan in the case of **Jahzeb Khan vs. The State through A.G. KPK and others** in Criminal Petition No.594/2020; wherein the Hon'ble Supreme Court has held that:

**"4..... Petitioner's continuous detention is not likely to improve upon investigative process, already concluded, thus, he cannot be held behind the bars as a strategy for punishment. A case for petitioner's release on bail stands made out."**

7. In view of the above, learned counsel for the applicant has made out a case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The applicant/accused named above is granted post-arrest bail subject to furnishing solvent surety in the sum of Rs.500,000/- and P.R. bonds in the like amount to the satisfaction of learned trial Court.

8. 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 applicant/accused on merits.

JUDGE