

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-426 of 2025

Applicant: Waseem *through* Mr. Sohail Ahmed Khoso, Advocate
Complainant: Mst. Sikandar Khatoon, *through* M/s Manzoor Hussain N. Larik and Waqar Ali Photo, Advocates
Respondent: The State, *through* Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General, Sindh
Date of hearing: 21.7.2025
Date of decision: 21.7.2025

ORDER

Muhammad Jaffer Raza, J.- Through captioned criminal bail application, applicant Waseem son of Mehboob Ali by caste Kalhoro, seeks post-arrest bail in FIR No.19/2022, registered at P.S Abdul Rehman Unar, for the offence punishable under Sections 302, 148 and 149 PPC.

2. Learned Counsel has argued that the alleged incident took place on 04.10.2022 at 1230 hours and the present applicant was arrested on 26.11.2022. He has further pointed out that the FIR was lodged on 15.10.2022 after a delay of approximately 11 days. He has stated that the trial is still pending and three witnesses have been examined and five witnesses are left to be examined. However, in this respect, he has stated that the ground of statutory delay was not taken by him before the learned trial Court, therefore, he will not agitate the same ground before this Court.

3. On merits, he has stated that there is family dispute between the parties and therefore, there is *mala fide* on behalf of the prosecution. The case against him has been “manufactured” by the complainant only due to above noted dispute between the parties. He has further alleged that no specific role has been assigned to him in the FIR and the identification of present applicant is not possible for the reason that same is a night time incident. He has further argued that the story of the prosecution is not fathomable as the distance between the place of incident

and the home of the respective parties is significant and therefore, there is serious discrepancy in the account of the prosecution. He has further argued that no presence of the mashirs has been mentioned in the statement of the complainant as well as brother of the deceased who were present before the trial Court. He has further pointed out that there is discrepancy in the injuries sustained to the deceased person and no detailed account of the said injuries i.e shot fired has been given in the above noted FIR. He has lastly argued that there is serious doubt regarding the version of the prosecution and even at bail stage the benefit of doubt is to be given to the applicant. He has relied upon case law reported as 2022 SCMR 198, 2014 SCMR 27 and 2019 YLR Note 24.

4. Conversely, learned counsel for the complainant has argued that no deeper appreciation of evidence is permissible at the stage of the bail. He further argued that the objection regarding mashirnama can only be taken by the applicant during the course of the final arguments at trial. He has pointed out that the trial is near completion as the main prosecution witnesses have been examined and only official witnesses are left to be examined and it is unlikely that the conclusion of the trial will take significant time. Further he has argued that specific role has been assigned to the present applicant who was earlier absconder and was only arrested in Crime No.101/2022 and 102/2022 registered with Police Station Nau Dero, District Larkana. He has further pointed out that his brother Waqas (also the accused in present FIR) is an absconder. In regards to the conduct of the applicant, he has stated that the present applicant has been nominated in 08 FIRs in three different Districts and conviction has been recorded in at least two of the FIR bearing Crime No.311/2023 and 102/2020 registered under Sections 324 PPC and Sindh Arms Act, 2013, respectively.

5. Learned DPG agreed with the contentions of the learned counsel appearing for the complainant and has stated that specific role has been assigned to the applicant and in accordance with the post-mortem report, the injuries are at vital part, therefore, the offence according to the learned to the learned prosecutor has been committed by the present applicant. He has lastly prayed that the instant bail application may be dismissed.

6. I have heard the learned counsel for the respective parties and perused the record available before me.

7. I have more specifically perused the examination of the complainant, her husband as well as the brother of the deceased. I would not like to observe anything in reference to the above noted examination of the parties as the same may influence the trial Court in determination of the above noted offence. It is however, only observed that the role of the applicant has been nominated by the above noted witness. Further, it has been settled in the cases, that the delay of 11 days in case of heinous offence is not fatal to the case of prosecution and in any event the case of the present applicant falls within the prohibitory clause of Section 497 Cr.P.C. In such circumstances granting of bail to the present applicant can only be done in exceptional circumstances, none of which have been advanced by the learned counsel for the applicant. I am not inclined to observe anything further regarding the above noted offence for reasons that the trial is near to the conclusion and any observation herein may influence the trial. The applicant has failed to make out a case for grant of post-arrest bail, the same is hereby dismissed with the above reasons.

8. Further, the trial Court is directed to expedite the trial and to conclude the same within period of two (02) months from today. The learned counsel for the applicant is at liberty to move fresh bail application before the learned trial Court in case of failure of above noted timeline.

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

JUDGE