

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-135 of 2025

Applicant: Babar Hayat Baloch son of Muhammad Hayat Baloch,
Through Mr. Mir Sarfaraz Ali Talpur, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G

Complainant: Sooraj son of Soomro,
Through Mr. Mir Hafeezullah Talpur, Advocate.

Date of order: 05.08.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicant/accused seeks pre arrest bail in F.I.R No.10/2025 for offence under sections 302, 114, 506(ii), 504, 147, 148 and 149 P.P.C registered at PS Vijuto, after rejection of his bail plea by the learned trial court vide order dated 23.05.2025.

2. The details and particulars of the F.I.R are already available in bail application and the F.I.R, as such, need not to reproduce the same hereunder.

3. Per learned counsel, the applicant/accused is innocent and the complainant has falsely implicated the applicant in this case. He further contended that role assigned against the applicant that he has instigated co-accused otherwise it will be determined when evidence will be recorded whether the applicant has shared his common intention or not. He further submits that from the face of the FIR, there is dispute between the parties over the agricultural land, as such false implication cannot be ruled out. He further submits that though the applicant, as per FIR, was armed with gun and said gun he has not used and even not fired. He further submits that applicant has joined the investigation and is no more required for further investigation. Learned counsel for the applicant Babar Hayat has also filed statement alongwith newspaper cutting wherein dispute has been shown with some Chandio community and as per counsel, the applicant has no concerned with such community. Lastly, he prayed for grant of bail to the applicant/accused. In support of his contentions, he relied upon

the case laws viz: 2023 P.Cr.L.J 323 [Sindh (Sukkur Bench), 2021 MLD 1720 [Balochistan], 2022 P.Cr.L.J 170 [Lahore], 2022 MLD 993 [Lahore (Multan Bench) and 2020 YLR Note 40 [Sindh (Hyderabad Bench)].

4. Learned counsel for the complainant has vehemently opposed for grant of bail to the applicant/accused and states that the applicant is implicated in the FIR with specific and he was present at the place of incident and on his instigation, co-accused has committed the offence, as such he is not entitled for concession of bail. In support of his contentions, he relied upon the case laws viz: 2023 YLR 2117 [Sindh], 2012 SCMR 707 [Supreme Court of Pakistan], 2010 SCMR 1861 [Supreme Court of Pakistan], 2024 MLD 1848 [Sindh (Sukkur Bench)] and 2011 YLR 1719 [Lahore].

5. Learned D.P.G also opposed for grant of bail to the applicant/accused and states that investigation has been changed from Mithi to Umerkot.

6. Heard and perused.

7. Upon a careful perusal of the record, it emerges that although the applicant's name is mentioned in the First Information Report, the role attributed to him is limited to the allegation that he merely instigated the co-accused to commit the murder of Soomro. The precise extent of the applicant's role is yet to be determined by the learned trial Court at the stage of recording evidence, particularly as to whether the applicant shared a common intention with the co-accused in the commission of the alleged offence. In the case of *Qurban Ali v. The State and others* (2017 SCMR 279), the Honourable Supreme Court of Pakistan was pleased to grant bail to an accused who had not been assigned any overt act during the commission of the offence, except for raising a "lalkara." It was held that, in such circumstances, it was for the trial Court to determine, after recording the relevant evidence, whether the accused was vicariously liable for the acts committed by the co-accused. The matter was thus considered one of further inquiry. Similarly, in the case of *Mumtaz Hussain and 5 others v. The State* (1996 SCMR 1125), bail was granted on the ground that, although the accused were alleged to be armed with deadly weapons such as a rifle, gun,

and hatchet, they only inflicted simple blunt injuries using the reverse side of their weapons. It was held that the determination of whether the accused shared a common intention with the principal accused, who had caused the fatal injury, was a matter requiring further inquiry.

8. At the stage of consideration for bail, only a tentative assessment of the material available on record is permissible; a deeper appreciation of evidence is not warranted. Furthermore, the complainant, in the FIR, has himself admitted the existence of a dispute pertaining to agricultural land, thereby indicating the presence of enmity between the parties. In such circumstances, the possibility of false implication cannot be ruled out at this stage.

9. In view thereof, the learned counsel for the applicant has successfully made out a case for the grant of bail within the contemplation of subsection (2) of Section 497, Cr.P.C. Consequently, the instant bail application is allowed, and the interim pre-arrest bail earlier granted to the applicant, namely Babar Hayat Baloch, is hereby confirmed on the same terms and conditions.

10. The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

Faisal