

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.S-697 of 2025

Applicants : 1. Manzoor s/o Gul Bahar Kharos,  
2. Sadique s/o Manzoor Kharos  
Through Mr. Ali Akbar Shar, Advocate

Respondent : The State  
Through Mr. Shafi Muhammad Mahar, DPG

Date of hearing : 28.08.2025  
Date of order : 03.09.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J** – Applicants Manzoor and Sadiq seek indulgence of this Court for grant of bail in a case bearing crime No. 02/2022, for offence under sections 302, 201, 337H(ii), 148, 149 PPC of Police Station Faiz Muhammad Narejo. Prior to this bail of applicant was declined by the court of learned Additional Sessions Judge-I/ MCTC Khairpur vide order dated 14.07.2025.

2. As per prosecution theory, on 11.01.2022, complainant Mst. Dhayani Kharos lodged FIR alleging therein that in the year 2012, accused Muhammad Nawaz Kharos and others had committed the murder of her brother-in-law Abdul Waheed Kharos and also caused injuries to Mumtaz Ali. Since then, accused Muhammad Nawaz Kharos and others were annoyed upon the complainant party and used to threaten that they would not spare Fateh Sher and others and would kill them. On 09.01.2022, in the morning, the complainant along with her husband Saifal Kharos, her son Ali Gul, and her nephew Nazeer Ahmed were going to Bagarji. At about 10:00 a.m. when they reached the bank of the river, suddenly fifteen armed men emerged from the riverside. The complainant identified them as Muhammad Nawaz armed with G-3 rifle, Zamir with K.K, Manzoor, Arbab, Eidan, Murad, Sadiq, Bakht, Rasheed alias Jado, Wazir, Ali Ahmed, Sahib, all by caste Kharos, residents of village Mengo Khan Kharos along with three unidentified persons who were clearly seen and identified and can be identified if seen again, all duly armed with K.Ks, rifles, and guns. Out of them, accused Muhammad Nawaz raised battle cry and said that due to ongoing murderous enmity, they would not spare them. Saying so, he fired a direct burst from his G-3 rifle upon complainant's husband Saifal with intention to commit his murder, which hit him on the head. Accused Zamir also

fired directly with K.K at Saifal, upon which Saifal, raising cries, fell down on the bank of the river. Thereafter, all the accused persons, in order to destroy and make disappear evidence, threw the dead body into the river. On hearing noise of gunshots, nearby people gathered, whereupon accused persons made aerial firing and escaped from the spot. The complainant party informed the police of Police Station Faiz Muhammad Narejo, and at about 4 p.m. in the evening, the police reached the place of incident and recovered the dead body from the river. It was observed that Saifal had died due to firearm injuries, having a head injury with exposed brain and a through-and-through firearm injury on the chest. After post-mortem examination, the dead body was handed over to the complainant party, and after burial, the complainant, after consultation with male members of her family, appeared at the police station and lodged the present FIR.

3. The learned advocate for the applicants/accused has reiterated the grounds mentioned in the bail application and has strenuously contended that the applicants are innocent persons who have been falsely implicated in this case due to admitted enmity. It has been emphasized that there exists delay of two days in lodging the FIR without plausible explanation, which provided sufficient time to the complainant for consultation and deliberation, and such delay in lodgment of FIR is fatal to the prosecution case. The learned counsel has particularly highlighted that there are contradictions between the postmortem report and the version of the complainant in the FIR. According to the learned counsel, the complainant has shown burst of G-3 rifle which would comprise thirty-one bullets and also shown fire of K.K caused to the deceased Saifal, but on the contrary, as per postmortem report, only two firearm injuries are shown on the dead body of deceased Saifal. The complainant, in order to show gravity of offense, has malafidely disclosed multiple fires, and under such circumstances, the case against applicants requires further inquiry. The learned counsel has further argued that as per postmortem report, nowhere is mentioned the time of receiving dead body, and also nowhere is mentioned water inside the dead body, which negates the version of the complainant in FIR that disclosed that police took dead body from river. This shows great contradiction, flaw, dent and doubt in the prosecution case, and benefit of doubt should be given to accused even at bail stage. It has been submitted that male members of the complainant had committed murder of Ali Sher, nephew of applicant number one, for which FIR Crime No. 04/2022 was registered at Police Station Faiz Muhammad Narejo lodged by Mumtaz Khatoon wife of Ali Nawaz against

male members of present complainant Mst. Dhayani. Due to that grudge, the complainant has involved present applicants in this case and has involved all the brothers of deceased Ali Sher just to pressurize the applicants' party so that they be compelled to withdraw from the murder case of Ali Sher Kharos. It has been further contended that male members of the complainant had also committed murder of Ali Nawaz, brother of applicant number one, for which FIR was also registered against the complainant party at Police Station 20 Mail Lakhi Ghulam Shah, District Shikarpur in the year 2021. The complainant party has involved present applicants and other co-accused, who are close relatives of deceased Ali Nawaz and deceased Ali Sher, on the basis of old murderous enmity. The learned counsel has emphasized that the complainant party has lodged two sequential FIRs Crime No. 01/2022 and Crime No. 02/2022 at Police Station Faiz Muhammad Narejo against the present applicants, being same accused, showing incidents of same day, which does not appeal to prudent mind that how the same persons can commit two different offenses in different places at the same time, which reveals that the case against them is squarely one of further inquiry. The learned counsel has also argued that the complainant has widened the net of false accusation against the applicants and involved more and more persons of the same related family with malafide intention and ulterior motives. All the witnesses cited in this matter are closely related to the complainant, being family members, and as per FIR assertion, neighboring individuals were drawn to the scene, suggesting the availability of disinterested testimony, but reliance solely on familial witnesses raises pertinent questions regarding potential for bias. No specific role or overt act is attributed to the applicants/accused, but mere presence is shown in the FIR, which will be determined at the time of trial after recording evidence of witnesses. At this stage, the present applicants having no specific and main role in this crime are presumed to be innocent and entitled for grant of bail. Nothing has been recovered from the possession of the applicants/accused which can connect them in commission of instant crime. The learned counsel has placed reliance upon the celebrated case of *Manzoor and 4 others v. The State (PLD 1972 SC 81)*, wherein it was observed that bail is not to be withheld as a punishment, and there is no legal or moral compulsion to keep people in jail merely on allegations unless reasonable grounds appear to exist to disclose their complicity. Further reliance has been placed upon *Tariq Pervez v. The State (1995 SCMR 1345)*, wherein it was held that for giving benefit of doubt, it is not necessary that there should be many circumstances creating doubts, and if

there is circumstance which creates reasonable doubt in prudent mind about guilt of accused, then accused would be entitled to benefit of doubt as matter of right.

4. The learned Deputy Prosecutor General for the State, assisted by the complainant, has vehemently opposed the bail application on the ground that names of the applicants/accused are appearing in the FIR with specific role and overt act, and they are involved in heinous murder case which carries capital punishment. It has been contended that though no specific role and overt act has been assigned to the applicants/accused Manzoor and Sadiq, they have shared their common intention in commission of alleged offense and facilitated main accused to commit murder of deceased Saifal. According to contents of FIR, it is alleged that after causing firearm injuries to Saifal, all the accused had thrown the dead body of deceased in the Indus River in order to cause disappearance of offense. The postmortem report of deceased supports the version of FIR, and all prosecution witnesses have fully implicated the applicants/accused with the alleged offense in their respective statements recorded under Section 161 Criminal Procedure Code. The learned DPG has argued that although there is delay of about two days in lodging FIR, the delay has been properly explained by the complainant, and it is well-settled principle of law that delay in lodging FIR would not be fatal to prosecution case particularly in serious and heinous offense. It has been submitted that other grounds taken by the learned counsel for applicants/accused appear to be grounds of deeper appreciation of evidence, which are not tenable at bail stage. The learned DPG has further contended that applicants/accused, despite having knowledge, remained fugitive from law since lodgment of FIR, and apparently, the offense with which applicants/accused are charged falls within the ambit of prohibitory clause of Section 497 Criminal Procedure Code.

5. This Court has given deep consideration to the arguments advanced by the respective parties and perused the material available on record. The fundamental principle governing bail applications remains well-established that grant of bail is the rule and refusal is the exception, particularly when circumstances exist which create reasonable doubt about the involvement of accused persons in the alleged crime or when the case requires further inquiry under Section 497(2) Criminal Procedure Code.

6. The Honorable Supreme Court in *Manzoor and 4 others v. The State (PLD 1972 SC 81)* has laid down the principle that it is important to

remember that bail is not to be withheld as a punishment, and there is no legal or moral compulsion to keep people in jail merely on allegations that they have committed offenses punishable with death or imprisonment for life, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case, albeit his acquittal in the long run.

7. In *Tariq Pervez v. The State (1995 SCMR 1345)*, the Supreme Court observed that for giving benefit of doubt, it is not necessary that there should be many circumstances creating doubts. If there is circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to benefit of doubt not as a matter of grace and concession but as a matter of right. Similarly, in *Sikandar A. Karim vs. The State (1995 SCMR 387)*, it has been held that even for the purpose of bail, the law is not to be stretched in favor of the prosecution and any benefit of doubt arising in the case must go to the accused.

8. In the present case, a careful examination of the record reveals several circumstances which create reasonable doubt about the involvement of the applicants/accused in the alleged crime and which call for further inquiry within the meaning of Section 497(2) Criminal Procedure Code. The most significant aspect is the apparent contradiction between the prosecution version in the FIR and the postmortem report. According to the complainant, multiple firearms were used including a G-3 rifle burst (which would involve multiple bullets) and K.K firing upon the deceased Saifal. However, the postmortem report shows only two firearm injuries on the body of the deceased. This substantial discrepancy raises serious questions about the truthfulness and accuracy of the prosecution version and suggests possible exaggeration or fabrication on the part of the complainant to show gravity of the offense.

9. Another significant aspect which creates doubt in the prosecution case is the complete absence in the postmortem report of any mention regarding the time of receiving the dead body or any indication of water inside the dead body, despite the prosecution version that the deceased was thrown into the river and subsequently recovered from there by the police. Such omissions in the medical evidence are crucial and tend to negate the prosecution version, creating substantial doubt about the veracity of the case. The fact that the

complainant party has lodged two sequential FIRs bearing crime No. 01/2022 and 02/2022, at the same police station against the same accused persons showing incidents of the same day at different locations also raises serious questions about the credibility of the prosecution case. It does not appeal to a prudent mind that the same persons could commit two different serious offenses in different places at the same time, which clearly indicates that the case requires further inquiry rather than accepting the prosecution version at face value.

10. The existence of cross-cases between the parties, including the murder of Ali Sher (nephew of applicant Manzoor) by male members of the complainant party and the murder of Ali Nawaz (brother of applicant Manzoor) by the same complainant party, demonstrates the complex nature of ongoing enmity between the parties. While enmity is indeed a double-edged sword that can support both prosecution and defense versions, at the bail stage, the law favors the accused, and the principle of presumption of innocence until guilt is proved remains paramount.

11. The delay of two days in lodging the FIR, while explained by the complainant, nonetheless provided ample opportunity for consultation and deliberation, particularly in cases involving inter-party enmity. The Supreme Court has consistently held that in cases involving enmity between parties, delay in lodging FIR assumes greater significance and can be indicative of fabrication and concoction. The role attributed to the present applicants/accused appears to be general in nature without specific overt acts being attributed to them individually. The prosecution case largely relies on the allegation that after the main incident, all accused persons collectively threw the dead body into the river to cause disappearance of evidence under Section 201 Pakistan Penal Code. However, it is pertinent to note that the Honorable Supreme Court in *Nasar Khan v. The State (2000 SCMR 130)* has clearly established that an accused charged with the main offense of murder cannot simultaneously be convicted for disappearance of evidence or offense to screen or save himself. The Court observed that it is a well-settled proposition of law that an accused charged with the main offense cannot be convicted for disappearance of evidence to screen himself.

12. All witnesses are close relatives of the complainant and are therefore interested witnesses whose testimony requires careful scrutiny at the trial stage. The fact that neighboring individuals were allegedly drawn to the

scene, as mentioned in the FIR, suggests the potential availability of disinterested testimony, but the prosecution appears to be relying solely on familial witnesses, which raises pertinent questions regarding potential for bias and consequent impact on credibility of testimony.

13. No recovery of incriminating material has been made from the possession of the applicants which could directly link them with the commission of the alleged offense. The investigation stands completed, and the applicants are no longer required for further investigation. The case has been challaned and is pending trial before the competent court. While this Court acknowledges that the offense is serious in nature and falls within the prohibitory clause of Section 497(1) Criminal Procedure Code, the circumstances highlighted above create sufficient doubt to warrant the conclusion that the case requires further inquiry within the contemplation of Section 497(2) Criminal Procedure Code rather than keeping the applicants in continued detention. The contradictions between the FIR version and postmortem report, the lodging of sequential FIRs on the same day against the same accused, the existence of cross-cases indicating complex inter-party disputes, and the general nature of allegations against the applicants all point toward the need for detailed examination at the trial stage rather than pre-judging the matter at the bail stage.

14. The principle established in *Muhammad Ismail v. Muhammad Rafique* (PLD 1989 SC 585) clearly states that when an accused becomes entitled to bail as of right under Section 497(2) Criminal Procedure Code, the same cannot be withheld on grounds of normal practice of courts, because the latter is relatable to exercise of discretion while the former is relatable to exercise and grant of a right. In *Zaigham Ashraf v. State and others* (2016 SCMR 18), the Supreme Court held that to curtail the liberty of a person is a serious step in law, therefore, judges shall apply judicial mind with deep thought for reaching fair and proper conclusion albeit tentatively. However, this exercise shall not be carried out in vacuum or in flimsy and casual manner as that will defeat the ends of justice because if the accused charged is ultimately acquitted at the trial, then no reparation or compensation can be awarded to him for long incarceration.

15. The case of *Muhammad Boota vs. The State* establishes that accused could be granted bail if his case was otherwise made out on merits and mere fugitive status would not come in the way of his bail. Similarly, the

principle enunciated in various cases including those cited by the learned counsel demonstrates that at bail stage, tentative assessment is required rather than deeper appreciation of evidence, and when reasonable doubts exist about the prosecution case, benefit thereof must accrue in favor of the accused.

15. In view of the above discussion and considering the well-settled principles of law regarding grant of bail, particularly in cases requiring further inquiry, this Court is satisfied that the present case calls for further inquiry within the contemplation of Section 497(2) Criminal Procedure Code. The circumstances highlighted above create reasonable doubt about the involvement of the applicants/accused in the alleged offense and require detailed examination at the trial stage rather than keeping them in continued detention during the prolonged trial proceedings.

16. The investigation is complete, the case has been challaned, and continued detention of the applicants would not serve any useful purpose. The interests of justice would be better served by allowing the applicants to defend themselves while on bail rather than keeping them incarcerated during trial proceedings, particularly when substantial doubts exist about the veracity of the prosecution case based on the contradictions and circumstances discussed above.

17. Consequently, for the reasons discussed hereinabove, this bail application is allowed. The applicants Manzoor and Sadiq are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs. 500,000/- (Five Lac Rupees) each, and PR bond in the like amount to the satisfaction of the learned Trial Court.

18. It is made abundantly clear that the observations made hereinabove are purely tentative in nature and are meant only for the purpose of deciding this bail application. These observations shall not prejudice the case of either party during the trial.

**JUDGE**