

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Crl. Bail Application No. S-119 of 2025

Date	Order with signature of Judge
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**Applicants:**

1. Awais S/o Abdul Hakeem

2. Javed S/o Manthar Ali

**Through** Mr. Mujahid Ali Shah, Advocate.

**The State**

**Through** Mr. Mansoor Ahmed Shaikh,  
Deputy Prosecutor General

Mst. Abida D/o Arbab Ali is present.

**Date of hearing.**

**05-05-2025.**

**Date of decision.**

**05-05-2025.**

**ORDER.**

*Ali Haider 'Ada',J;-* Through this application, the applicants named above seeks their post-arrest bail in Crime No.175/2023, registered under Sections 302, 311, 201, 34 PPC at Police Station Faiz Ganj. The said FIR was lodged by the complainant, SIP Ghulam Rasool. Prior to filing the instant application, the applicants had approached the learned Additional Sessions Judge, Mirwah, for the same relief; however, their bail application for post-arrest bail was declined vide order dated 17-12-2024.

2. The crux of the prosecution case is that the complainant, a police officer, along with his staff, was on routine patrolling within the jurisdiction when he received spy information alleging that on 14.09.2023, the accused Awais and Javed, alongwith two unidentified persons, committed the murder of Mst. Fahmida Solangi in the name of Karp. It was reported that the deceased had

visited her maternal uncle, Bashir Ahmed and thereafter murdered by strangulation. Subsequently, an attempt was made to portray her death as resulting from a hepatitis-related illness. Upon reaching the residence of the deceased, the complainant approached her father, Arbab Ali, for lodging the FIR, but he avoided doing so. Consequently, being a case of cognizable offence, on 19.09.2023 at around 1500 hours, the complainant registered FIR wherein it was alleged that accused Awais, in collusion with others, murdered his sister Mst. Fahmida Solangi.

3. Pursuant to the registration of FIR, both accused were arrested and a rope allegedly used in the offence was recovered on the pointation of accused Awais. During the course of investigation, an application for exhumation of dead body was moved and as per the report of the Medical Board, the cause of death was confirmed to be asphyxia. The final challan was submitted and both applicants are now facing trial.

4. Learned counsel for the applicant initially submitted that he does not press the bail application to the extent of applicant Awais, for the time being. Accordingly, the request is accepted to that extent. However, the bail application is pressed on behalf of applicant No.02, Javed. Learned counsel contends that no specific role has been attributed to applicant Javed in the commission of the alleged offence. He further submits that there is no cogent or substantive evidence available against the said applicant; even the circumstantial evidence does not connect him with the crime. The incident is admittedly unseen and the involvement of applicant Javed appears to be based solely on the version of the

police, without any independent source or witness corroborating their claim, as prays for grant of post-arrest bail to the applicant No.02 Javed.

5. Conversely, learned State Counsel submits that the present case pertains to an incident of karap, wherein co-accused Awais, allegedly with the support of applicant Javed, committed an offence punishable with death or life imprisonment. It is further submitted that a recovery was effected from co-accused Awais and the medical evidence supports the version of the complainant. Therefore, the applicant Javed is not entitled to the concession of bail. However, Mst. Abida, daughter of Arbab Ali, is present before the Court today and has raised no objection to the grant of bail to the applicant, stating that Mst. Fahmida was not murdered by the applicant Javed. It is also noteworthy that on the last date of hearing, Arbab Ali (father of the deceased) was present and similarly did not oppose the bail plea.

6. Heard arguments and perused the material available on record.

7. After carefully examining the case record, it emerges that the deceased had gone to visit her maternal uncle, Bashir Ahmed Solangi. The allegation is that the accused persons took her to a nearby jungle and committed her murder by means of strangulation with a rope. However, during the course of investigation, the police neither recorded the statement of Bashir Ahmed, the maternal uncle of the deceased, nor did they make any effort to investigate this crucial aspect by visiting the alleged place of incident to ascertain the real facts of the matter. In this regard, reference may be made to the case of *Sanwal v. The State (2021 PCrLJ Note 51)*, wherein it has been held that when the star or material witness was not examined during the course of investigation, it created

serious doubt regarding the prosecution's version, and bail was accordingly granted on the ground that the matter required further inquiry within the meaning of Section 497(2) Cr.P.C. Furthermore, in the case of *Mian Munfar Ali v. The State (1999 PCrLJ 369)*, it was also observed that:

11. *"No reason exits and none indeed has been advanced by the learned Assistant Advocate General as to why these three material witnesses, who are all responsible Government Servants, have not been examined so far in support of the prosecution case. This has created a shadow of doubt in my mind as to the correctness of the prosecution case against the Petitioner."*

8. Furthermore, the role of the present applicant, Javed, is not specifically attributed in the prosecution case papers. All the circumstantial evidence, as available on record, pertains solely to the co-accused Awais. The mere mention the name of applicant Javed in the FIR, without any corroborating material or specific allegation, is not sufficient to connect him with the commission of the alleged offence.

9. It is also a matter of record that the incident has not been reported by the immediate family members or legal heirs of the deceased. On the contrary, both the father and other relatives of the deceased have filed their no-objection affidavits before the learned trial Court and even before this Court they have maintained their stance in support of granting relief to the present applicant. While it is true that in such like cases, the possibility of family members submitting no-objection statements must be viewed with caution due to potential social and familial pressures, while, in the present case such concerns are significantly diluted in light of the absence of any direct evidence against the applicant. Notably, the entire set of circumstantial evidence, including recovery and medical findings, pertains only to co-accused Awais.

10. So far question of recovery is concerned, that recovery was effected from a co-accused cannot, by itself, adversely impact the case of applicant from whom no recovery has been made. The fundamental right to liberty, as enshrined under Article 9 of the Constitution of the Islamic Republic of Pakistan, cannot be infringed upon in the absence of credible, or corroborative evidence. Mere recovery from a co-accused, without any independent link to the applicant, who seeking bail, cannot serve as a valid ground to justify pre-trial detention. For instance, relied upon the case of *Muhammad Ijaz v. The State (2005 P.Cr.L.J. 603)*.

11. It is also a well-recognized Latin phrase that "*Agere personaliter debet qui personaliter peccat*" meaning: *He who acts personally should personally be held responsible*. This maxim emphasizes individual liability, making it clear that a person is responsible only for their own wrongful acts, not for those committed by others.

12. Furthermore, no incriminating material has been brought on record that directly implicates the present applicant Javed in the alleged commission of the offence. The prosecution has not produced any independent witness or investigative finding linking him to the actual act or conspiracy. In such circumstances, when both direct and circumstantial evidence is missing, the continued incarceration of the applicant would amount to pre-trial punishment. In this regard, reliance is placed upon the case of *Roidad v. The State and another (2022 MLD 660)*, wherein it has been held that:

*5. Being an unseen occurrence, there is no direct evidence to prima facie connect the present accused with the commission of offence. Be that as it may, suffice it to say that evidence regarding last mobile contact in absence of any corroborative evidence is a weak type of evidence, specially when it has not been mentioned in the FIR that at what time deceased was lastly seen in the company of the accused.*

6. *So far as the recovery of weapon of offence and burnt mobile of deceased are concerned, the same were not recovered from the direct possession of the accused, which would also require pro and contra evidence during trial. In this regard reliance could be safely placed on case law reported in 2017 SCMR 61, 2014 SCMR 12.*

13. It is a well-settled principle of criminal jurisprudence that “bail is the rule and jail is the exception,” especially where deeper appreciation of evidence is required, which falls within the domain of the trial court. At the bail stage, only a tentative assessment is to be made and where the prosecution evidence is doubtful or inadequate to connect an accused, the benefit of bail should be extended to the accused person.

14. It is also true that the witnesses cited in the case are all police officials and therefore, there is no likelihood of the applicant influencing or tampering with their evidence. In support of this, reliance is placed on the case law: *Muhammad Yousif Jatoi v. The State (2025 MLD 128)*, *Ismail v. The State (2023 MLD 942)*, and *Ali Khan v. The State (2022 PCrLJ 690)*.

15. It is a well-settled principle of criminal jurisprudence that the benefit of doubt, no matter how slight, must be extended to the accused, not only at the stage of final adjudication but also at the bail stage. Where the prosecution case appears to be doubtful or calls for further inquiry under Section 497(2) Cr.P.C. the accused becomes entitled to the concession of bail. The law does not require absolute certainty at the bail stage; rather, if there is a reasonable doubt as to the guilt of the accused, the benefit thereof must be given in favour of liberty. This legal wisdom has been consistently upheld by Honourable Apex Court in the cases of *Salman Zahid vs The State through PG Sindh, 2023 SCMR 1140*, *Fahad Hussain vs The State 2023 SCMR 364*, *Muhammad Eijaz Vs The State 2022 SCMR 1271* and *Muhammad Arshad vs The State 2022 SCMR 1555*.

16. In view of above, I am of the considered view that applicant No.2 Javed has been able to make out a case for grant of bail. Accordingly, instant bail application to the extent of applicant No.2, namely, Javed son of Manthar Ali Solangi is hereby granted subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One lac) and PR bond in the like amount to the satisfaction of the trial Court. However, the bail application of applicant No.1 namely, Awais son of Abdul Hakeem Solangi has been withdrawn by the counsel for applicant hence, the same is dismissed as not pressed.

17. Needless to state, the observations made herein are tentative in nature and shall not prejudice or influence the learned trial court in any manner while adjudicating the case of the applicant/accused on its own merits.

Bail application stands disposed of in the above terms.

**JUDGE**

*Ihsan/PS.*

