

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-492 of 2025

Applicant : Muhammad Bachal s/o Jam Khan, Thebo
Through Mr. Sohail Ahmed Khoso, Advocate

Complainant : Gul Khatoon w/o Jalal Khan, Bugti
Through Mr. Maqsood Ahmed Leghari,
Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 01.09.2025

Date of Order : 18.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J: Applicant Muhammad Bachal s/o Jam Khan Thebo seeks post-arrest bail in Crime No.144/2024, for offences under Sections 302, 337-H(ii), 148 and 149 PPC, registered at Police Station Kotdiji, District Khairpur. His earlier bail application was dismissed by the learned Additional Sessions Judge-I/MCTC, Khairpur, vide order dated 15.05.2025.

2. The prosecution, led by complainant Mrs. Gul Khatoon, presents a grave and unambiguous case. The complainant recounts that about a year prior, her son Kashif Ali had been murdered by the applicant due to a land dispute, with proceedings pending in the court. The applicant had threatened her husband Jalal Khan to withdraw from that case or face dire consequences. On 16.09.2024 at about 11:30 a.m., while the complainant, her husband, and sons were returning on motorcycles near Mirwah Bridge, they were intercepted by the applicant alongside co-accused Shah Dino, Allah Bux, and another unidentified individual, all armed. The confrontation turned violent when the applicant allegedly fired at Jalal Khan's left thigh and Shah Dino at his right leg, causing grievous injuries from which Jalal Khan

succumbed instantly on the spot. Immediate arrangements for postmortem and funeral rites were undertaken, followed by the lodging of the FIR.

3. The learned counsel for the applicant argued vehemently on multiple grounds: the FIR was filed after an unexplained delay exceeding four hours, reflecting mala fide and calculated tactics by the complainant; the case was a counterblast to Crime No. 146/2024, in which the applicant's brother had lodged a FIR against the complainant's sons; the role attributed to the applicant was limited to causing an injury on a non-vital part (the thigh), insufficient to cause the death; the learned counsel emphasized the principle of consistency in bail jurisprudence, relying on the fact that co-accused Allah Bux had been granted bail by the trial court, thereby entitling the applicant to similar concession; all prosecution witnesses being close relatives of the complainant were presumably biased; and finally, highlighting the applicant's continued detention since arrest. Learned counsel heavily relied on authoritative precedents including 2010 P.Cr.L.J 964, 2023 SCMR 857, 2021 SCMR 138, and others to bolster these contentions.

4. Conversely, the learned Deputy Prosecutor General and complainant's counsel opposed bail. They submitted that the applicant is specifically named in the FIR with a precise role in firing at the deceased. The FIR was lodged promptly, considering the circumstances. The ocular testimony corroborates the medical evidence describing injuries consistent with firearm wounds inflicted by the applicant. The prosecution's recovery of the pistol from co-accused Allah Bux matching empties from the crime scene further strengthens

their case. They contended that the serious nature of allegations under Section 302 PPC falls squarely within the ambit of the prohibitory clause of Section 497(1) Cr.P.C, which restricts bail in heinous offences where there exists reasonable ground to believe the accused's guilt.

5. This Court, after full consideration of the parties' submissions and thorough perusal of the record, holds that the prosecution evidence *prima facie* connects the applicant to the murderous assault. The specific identification of the applicant's role in firing at the deceased carries significant weight, supported by ocular and medical evidence. The alleged delay in FIR lodgment is explicable and does not amount to *mala fide* or invalidate the prosecution's case, consistent with settled principles that minor delays are excusable where explained by procedural exigencies such as postmortem and funeral rites (see *Shahzad Khan v. The State*, 2018 P Cr.LJ 104). The plea of counterblast fails to negate the direct allegations against the applicant; the mere existence of cross FIRs or enmity is insufficient, without more, to discredit the prosecution's case.

6. Further, the argument on the principle of consistency is carefully examined in light of the authoritative stance reiterated by the Supreme Court that each accused stands on his own footing and equality in bail proceedings is not absolute; the role attributed, investigative material, and facts unearthed must be considered holistically before applying this rule (*Mohammad Atif v. The State*, Crl.P.298/2023). Hence, the grant of bail to co-accused Allah Bux does not constitute a binding precedent for extending bail to the present applicant where distinct role and evidence differentiates their cases.

7. Lastly, under Section 497(1) of the Criminal Procedure Code, an offence punishable with death or life imprisonment attracts the prohibitory clause against bail where reasonable grounds suggest the accused's involvement. The instant case of murder strictly falls within this zone, and as such, the contention for bail must fail unless exceptional grounds are present, which in the present matter, are not.

8. In conclusion, after a considered analysis, this Court finds the applicant has not made out a case warranting post-arrest bail at this stage. The application is dismissed accordingly with the clear rider that these observations are tentative and shall not prejudice the trial court's discretion upon final adjudication.

J U D G E