

10.03.2025

- Mr. Gulam M. Bazeji Adv. for the applicant.
 - Mr. Muhammad Iqbal Adv. for the Complaint.
 - Mr. Afkar Ali DPL.
- Reserved for Order.

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IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

1st Criminal Bail No.3-20 of 2025

Ghulam Rasool Kharos

V/S

The State

Applicant: Ghulam Rasool son of Muhammad Fazul Kharos
Through Mr. Ghulam Muhammad Barejo,
Advocate.

State: Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh.

Date of Hearing: 10.03.2025

Date of Decision: 19.03.2025

ORDER

Omar Sial, J.- Ghulam Rasool seeks post-arrest bail in Crime No. 10 of 2024 registered under sections 302, 324, 114, 147, 148, 149, 337-A(i)F(i) P.P.C. at the Usman Essani at Bado police station. Nizamuddin on 19.06.2024 went to the Usman Essani police station and provided information of a cognizable offence. He recorded that he and Ghulam Rasool have farming differences and that on 18.06.2024 he was in the company of his brothers Bakhtiar and Akhtiar, as well as his nephew Sachal when eight men, who were all identified came there. Ghulam Rasool, one of the accused, instigated the others followed by Ameer Ali hitting Nizamuddin on his hand with the hatchet he carried. Ghulam Akbar, Abdul Ghaffar and Gul Mir hit Mukhtiar with the lathis they carried. Karim Bux fired upon Sachal hitting him on his head. Riaz hit Sachal with a lathi. Rafique hit Nizamuddin with a hatchet. The accused after beating the complainant party then left the scene. Bakhtiar died. F.I.R. No. 10 of 2024 was registered under sections 302, 324, 114, 147, 148 and 149 P.P.C.

2. Learned counsel for the applicant Ghulam Rasool argued that Ghulam Rasool was not present on the spot and has been dragged into the case with an ulterior motive as he is the father of the remaining individuals nominated accused. He submitted that even according to the prosecution Ghulam Rasool's role was restricted to instigation and that he was empty handed at the time of the occurrence. Lastly he submitted that the applicant was 83 years old. Mr. Jagirani, learned counsel for the complainant and the learned Deputy Prosecutor General opposed the grant of bail.

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3. I have heard the learned counsels for the applicant and complainant and the learned Deputy Prosecutor General. My observations and findings are as follows.

4. The friction between the parties is apparent on the face of the record. Two F.I.R.s have been registered earlier (F.I.R. No.86 of 2008 under sections 302 and 334 P.P.C on 17.10.2008 and F.I.R. No. 17 of 2022 under sections 506/2 and 34 P.P.C. on 25.07.2022). The applicant is one of the nominated accused in both F.I.R.s. This is the third F.I.R. in which the applicant has been nominated accused. The outcome of the cases arising from the aforementioned F.I.R.s is not known. I have taken into account these previous F.I.R.s in making my decision.

5. I continue to find it unnatural that during an all-out brawl where lathis and hatchets appear to have been used freely, the complainant, who himself alleged himself to have been hit, could so accurately note who hit who on which part of their body and in what sequence. It is correct that the injured have all supported the assertion that the applicant was present and had instigated the others; however, the past acrimony between the parties precludes me from eliminating the possibility of the net thrown wide. The applicant was unarmed and no role apart from instigation has been alleged. Whether the applicant shared a common intention with those who are said to have hit and killed Bakhtiar will have to be shown at trial.

6. The applicant's advanced age of 83 also tilts the balance of bail grant in his favour. Although the learned counsel for the complainant argued that the applicant is not of an advanced age, the NADRA-issued NIC shows his birth year as 1947.

7. A combination of the above-mentioned aspects leads me to conclude that the applicant has made a case for granting bail on the basis of further inquiry. He is therefore admitted to bail subject to his furnishing a surety of Rs. one million and a P.R. Bond for the same amount. As a further condition of bail, the applicant is restrained from contacting the complainant family directly or indirectly. Upon provision of evidence that this condition has been breached, the learned trial court shall cancel the concession granted herein.


JUDGE

Manzoor