

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-590 of 2025

Applicant : Sache Dino @ Babu son of Hussain Bux, Behan
Through Mr. Sabir Hussain Abbasi, Advocate

Complainant : Ali Raza son of Ahmed Nawaz, Behan
Through Mr. Muhammad Iqbal Memon, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of Hearing : 27.10.2025

Date of order : 07.11.2025

ORDER

KHALID HUSSAIN SHAHANI, J – Applicant Sache Dino @ Babu, seeks pre-arrest bail in a case bearing crime No.17/2025, for offences under sections 302, 148 and 149 PPC of Police Station Sadhuja, District Naushahro Feroze. Prior to this, bail of applicant was declined by the court of learned Sessions Judge, Naushahro Feroze, vide order dated 09.07.2025.

2. The prosecution case, as narrated in the FIR lodged on 03.07.2025, alleges that the deceased Ahmed Nawaz Behan was subjected to a murderous attack near Admore Petrol Pump on the National Highway, where six accused, including the applicant, fired upon him, resulting in his immediate death. The complaint explains prior animosity originating from an altercation in 2024 over village road passage, which allegedly culminated in this fatal assault. According to the complainant, six bullet wounds were inflicted by six accused, one each, evidencing a premeditated collective attack.

3. Conversely, the defense vehemently challenges the prosecution narrative on multiple grounds, underscoring significant contradictions and procedural irregularities. Central to the defense argument is the disparity between the FIR claim of six separate firing incidents causing six injuries and the provisional postmortem report documenting only three entry wounds and three corresponding exit wounds, indicating three actual gunshot injuries rather than six. This discrepancy casts substantial doubt on the reliability and truthfulness of

the prosecution's factual assertions, potentially pointing to exaggeration or fabrication motivated by enmity.

4. Further adding to the concerns is the irregularity in the postmortem report timeline: the dead body was received at the hospital on 02.07.2025 at 2:30 p.m., yet the provisional postmortem report is dated 16.07.2025, and the final report issued on 27.09.2025, in violation of section 11(3) of the Sindh Medico-Legal Act, 2023, which mandates issuance of such reports within 24 hours of examination. This delay undermines the evidentiary weight of the medical findings and raises questions about adherence to lawful investigative protocols.

5. The defense also highlights the 13.5 hour delay in lodging the FIR, admitted to be caused by consultations with village 'nekmards.' Jurisprudence establishes that such delay in cases involving admitted enmity carries greater significance, as it affords an opportunity for concoction, and thereby attenuates the prosecution's version. The law requires vigilance against using delayed FIRs as mere exculpatory loopholes, yet such delay, when coupled with other discrepancies, cannot be dismissed lightly.

6. Additionally, all prosecution witnesses appear to be relatives of the complainant, entailing potential partiality in their testimony. Though the FIR mentions the presence of passersby who could provide disinterested accounts, such evidence remains unexplored. The recovery of three empties from the crime scene not matching the weapon allegedly possessed by another accused Latif Khan further complicates the evidentiary tableau, reinforcing the necessity for further inquiry.

7. The learned counsel for the complainant and the Deputy Prosecutor General have maintained that the offense is grave, attracts the prohibitory clause under Section 497(1) CrPC, and that deeper issues concerning evidence merit consideration at trial, not bail stage.

8. However, the Court finds that the cumulative effect of the discrepancies in the forensic report, procedural delays, admitted enmity, and the

nature of examined witnesses, taken together, suffices to create a reasonable doubt about the applicant's immediate involvement, warranting further investigation. Under Section 497(2) CrPC, bail is not forbidden when the case calls for further inquiry.

9. The settled jurisprudential canon that even a single cogent circumstance creating reasonable doubt entitles the accused to benefit of bail as a right, not charity. The presumption of innocence and protection of personal liberty remain cardinal principles guiding bail considerations, particularly pertinent where the accused has not misused bail privileges or attempted tampering.

10. In this backdrop, while cognizant of the grave nature of charges against the applicant, this Court concludes that the pre-arrest bail granted provisionally deserves confirmation to prevent undue curtailment of liberty in pending trial proceedings. The order herein is tentative and shall not prejudice the trial court's findings on the merits.

11. Accordingly, the interim pre-arrest bail granted on 11.07.2025 to applicant Sache Dino @ Babu is hereby confirmed on the previously imposed terms and conditions. The applicant shall continue to cooperate with the investigation and trial process.

J U D G E