

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2646 of 2025

Applicants	Muhammad Ishaq through Mr. Muhammad Shaheryar Saleem,
Complainant	Sharafuddin through Mr. Abdul Ghaffar Khan Niazi, Advocate
Respondent	State through Mr. Riaz Ahmed Soomro, ADPP

Date of hearing 12.11.2025.

Date of order _____

O R D E R

TASNEEM SULTANA-J.- Through this Criminal Bail Application, the applicant seeks post-arrest bail in case bearing FIR No.140/2025 registered at Police Station Sharafi Goth, Karachi, under sections 302, 324, 337-A(i), 427 and 34, P.P.C. After rejection of post -arrest bail by the learned Additional Sessions Judge -VIII, Malir, Karachi, vide order dated 20-09-2025.

2. Briefly, the prosecution case as set out in the FIR is that on 06.05.2025 at about 09:25 p.m. near Abbasi Chowk, Future Colony, Landhi, the complainant's brother Nizam-ud-Din was murdered by firearm injuries while Wali Muhammad sustained injuries. The complainant's nephew Asad Ullah claimed to have witnessed the incident and implicated four persons, namely Muhammad Ishaq (present applicant), Yaqoob Shah, Ajab Gul sons of Ismail Shah and Muhammad Noman s/o Muhammad Ayaz. It is alleged that Muhammad Noman inflicted an axe blow upon Wali Muhammad, whereas Muhammad Yaqoob fired upon Nizam-ud-Din causing his death, while the remaining accused, including the present applicant, also fired their weapons during the occurrence.

3. Learned counsel for the applicant contended; that the applicant has been falsely implicated due to admitted enmity as he had earlier lodged FIR No.277/2024 against the complainant's relatives for the murder of his real brother; that the present FIR has been lodged as a counterblast to that case with malafide intent to settle personal scores;

that there is an unexplained delay of two days in registration of the FIR which creates doubt upon the veracity of the prosecution story; that no specific role or recovery of any weapon is attributed to the applicant; that the alleged CCTV footage is fabricated and self-created having no evidentiary value; that all the witnesses are close relatives of the complainant and hence partisan; that the applicant is an aged and ailing person suffering from multiple diseases; and that in view of the above circumstances, his case falls within the ambit of further inquiry entitling him to the concession of bail under Section 497(2) Cr.P.C.

4. Conversely, learned ADPP assisted by learned counsel for the complainant opposed the bail plea; that the applicant is specifically nominated in the FIR with an active role of firing during the occurrence; that the CCTV footage collected during investigation was examined through forensic experts and its report confirms that no editing or tampering features were observed; that the CDR analysis also substantiates the presence of the applicant at or near the scene of offence at the relevant time; that both eye-witnesses namely PW Asad Ullah and PW Wali Muhammad have categorically implicated the applicant by assigning him a specific and active role; that their statements are consistent and supported by medical evidence; and that sufficient material is available connecting the applicant with the commission of a capital offence which squarely falls within the prohibitory clause of Section 497(1) Cr.P.C., therefore, the applicant is not entitled to the concession of bail.

5. Heard. Record perused.

6. While deciding a bail plea, the Court is not required to undertake a deeper appreciation of the evidence but only to make a tentative assessment as to whether reasonable grounds exist for believing that the accused is connected with the commission of the alleged offence, or the case of the applicant falls within the ambit of further inquiry.

7. On comprehensive analysis of the record, it reflects that the applicant is nominated in the FIR with an active role of firing during the occurrence. PW Asadullah and PW Wali Muhammad in their statements under section 161 Cr.P.C., gave a detailed narrative of the incident by attributing the specific role of firing resulting in the death of the complainant s' brother and their statements appear consistent with the medical evidence. The forensic report confirms that the CCTV footage collected during investigation is genuine and no editing or tampering features noted therein, while the CDR analysis confirms the

presence of the present applicant at the crime scene at the relevant time. Reliance is placed in case of **Allah Dewayo Shahani v. The State (2023 SCMR 1724)** wherein Hon'ble Supreme Court has observed as under: -

7". In the present case, six accused persons have been implicated, including the petitioner, and have been assigned a specific role in the commission of the offence. The offence was said to have committed by the petitioner and other co-accused when the complainant party was cultivating their own land, therefore, the possibility of common object which stands for and connotes a prearrangement and common intention/objective of committing the murder of the deceased cannot be ruled out. In order to decide the question of common object of an unlawful assembly, the demeanor of each of the members of the said assembly is relevant for consideration of the Court during trial. In the present case, all the accused persons, including the petitioner, were armed with firearm weapons, the details of which are already mentioned in the FIR, therefore under the niceties of section 149, P.P.C., every member of any unlawful assembly stands to be accountable for committing the crime, provided the said criminal act is perpetrated with a common object or such as every member of the assembly was mindful that such offence is likely to be committed and there must be some nexus between the common object and the offence committed. According to section 141, P.P.C., an assembly of five or more persons is designated an unlawful assembly for a common object of the persons composing that assembly. No doubt that the common object of the assembly must be one of the five objects mentioned in section 141, P.P.C. which can be gathered from the milieu of the assembly including the arms used by them and the behaviour of the assembly at the scene of crime, but it is quite noticeable from the language used in section 149, P.P.C. which makes every member of an unlawful assembly at the time of committing of the offence guilty of that offence, and in this case at least six persons assembled at the place of complainant and committed murder with fire arms including automatic weapons and each accused has been assigned a specific role, including the petitioner, and the prosecution case is supported by the ocular account."

8. The Hon'ble Supreme Court in case of **The State \ Anti Narcotic Director- General v. Rafiq Ahmed Channa (2010 SCMR 580)** has enumerated factors to be considered while dealing with bail applications:

- (a) whether there is reasonable ground for believing that the accused has committed the offence;
- (b) whether the case requires further inquiry;
- (c) nature and gravity of the charge;
- (d) severity of punishment; (e) danger of absconding; (f) danger of witnesses being tampered with; (g) danger of offence being repeated.

9. The plea of false implication due to previous enmity, at this stage, cannot be accepted in the face of such material. The delay in lodging the FIR, in the circumstances, is not of such significance as to cast doubt upon the prosecution's stance. In the instant case, however, upon tentative assessment of the material available with the prosecution, this court is convinced that reasonable grounds exist for believing that accused \ applicant has committed a non-bailable offence falling within the ambit of the prohibitory clause as contained in section 497 of Cr.P.C., inasmuch as overwhelming evidence is available on the record to connect the accused \applicant with the commission of the alleged crime. No case of post- arrest bail at all is made out. Accordingly instant criminal bail application is dismissed.

10. Needless to observe that observation made hereinabove are tentative in nature and the Trial Court shall not in any manner influenced while deciding the main case.

JUDGE

Shabir/P.S