

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 82 of 2026

[Laal Dino Channa and another v. The State]

Date of hearing : **31.08.2026**

Date of decision : **31.08.2026**

Mr. Muhammad Zubair Malik, Advocate for the applicants.
Mr. Saeed Ahmed Panhwer, Advocate for the complainant.
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

ORDER

ARBAB ALI HAKRO, J. – Through this criminal bail application, the applicants/accused Laal Dino and Abdul Jabbar seek post-arrest bail in Crime No.43 of 2025, registered at Police Station Mohabat Dero, District Naushahro Feroze, for offences punishable under Sections 376, 302, 34, 337-J and 120-B, P.P.C. Their earlier application for post-arrest bail was dismissed by the learned Additional Sessions Judge, Moro, vide order dated 16.01.2026.

2. The prosecution case, as set out in the F.I.R., is that the complainant, Allah Warrayo Channa, is the father of the deceased, Mst. Faiza, aged about 16/17 years. It is alleged that about three or four months prior to the occurrence, applicant Laal Dino committed rape upon the deceased. Thereafter, a private faisla was convened before the community elders, at which Laal Dino was held responsible, a penalty of Rs.400,000/- was imposed upon him, and an arrangement was made for the solemnization of Nikah with the deceased. It is further alleged that on 27.07.2025, at about 09:00 a.m., both applicants jointly administered poisonous tablets to the deceased. The complainant and the witnesses allegedly reached the place of occurrence and found her in a serious condition. She was shifted to the hospital, where she expired at about noon. It is alleged that before she was shifted to the hospital, the deceased disclosed that both applicants had administered poisonous tablets to her.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to a matrimonial dispute. He submitted that the deceased had consumed poisonous tablets herself and that the applicants had no role in her death. He emphasized

that the initial version recorded in the inquest proceedings disclosed consumption of poisonous tablets and that the matter was initially treated as an apparent suicide. He further pointed out that the post-mortem examination disclosed no external injury or signs of violence, that no independent witness had seen the applicants administer poison, that no recovery had been affected from them, and that the DNA report did not detect any male DNA, semen stains, or sperm fraction on the vaginal and anal swabs of the deceased. According to learned counsel, these circumstances bring the case within the ambit of further inquiry under Section 497(2), Cr.P.C. He therefore prayed that the applicants be admitted to post-arrest bail.

4. Learned Additional Prosecutor General, assisted by learned counsel for the complainant, opposed the application. It was submitted that both applicants are specifically nominated in the F.I.R.; the deceased disclosed their names; the prosecution witnesses have supported the prosecution version in their statements under Section 161, Cr.P.C.; and the Chemical Examiner detected aluminium phosphide in the viscera of the deceased. It was further submitted that the earlier allegation of sexual assault, the private faisla, the imposition of penalty, and the proposed Nikah furnish sufficient motive for the occurrence. It was lastly urged that the offence falls within the prohibitory clause of Section 497, Cr.P.C., and that the applicants are, therefore, not entitled to the concession of bail.

5. I have heard learned counsel for the parties and examined the available record with their assistance.

6. At the bail stage, the Court is not called upon to enter upon a deeper appreciation of the evidence. The assessment is tentative and is confined to determining whether reasonable grounds exist for believing that the accused is guilty of a non-bailable offence, or whether the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. The scope of this exercise has been explained by the Supreme Court in **Salman Mushtaq and others**¹, wherein it was held that the doctrine of further inquiry connotes a notional and exploratory assessment which may create doubt with regard to the involvement of the accused in the crime and that the expression “reasonable grounds” means grounds which are legally acceptable and appeal to a judicial mind, as opposed to those which are imaginative or presumptuous. Their Lordships further held that

¹ *Salman Mushtaq and others v. The State through P.G. Punjab and another* (2024 SCMR 14)

the atrociousness or gravity of the offence is not, by itself, sufficient to warrant refusal of bail where the nature of the material produced in support of the accusation creates doubt as to the veracity of the prosecution case and that in such a situation the concession of bail is not to be withheld by way of punishment.

7. In the present case, the Chemical Examiner has detected aluminium phosphide in the viscera of the deceased. The fact of poisoning is therefore supported by scientific evidence. However, the chemical report merely establishes the presence of poison in the body of the deceased; it does not establish that the poison was administered by either of the applicants. In a case of the present nature, the prosecution is required to establish not merely that death was occasioned by poison, but also that the poison was in fact administered by the accused; the latter is a distinct and independent link which does not follow as a matter of course from proof of the former. The material question at this stage is whether there are reasonable grounds to connect the applicants with such administration.

8. The record shows that immediately after the death, it was treated as an apparent case of suicide following the consumption of poisonous tablets, and the inquest proceedings reflected that version. The police thereafter constituted a team to inquire into the matter and the F.I.R, registered subsequently, attributed the administration of poison to both applicants. What thus emerges from the record is the existence of two divergent versions regarding one and the same death: the version borne out by the initial proceedings and the version set out in the F.I.R. In **Ehsan Ullah**², the Supreme Court held that where two conflicting versions in respect of the same occurrence are available on the record, the case of the accused becomes one of further inquiry falling within the ambit of sub-section (2) of Section 497, Cr.P.C, in which event the grant of bail is a right of the accused and not a grace or concession extended by the Court. Which of the two versions represents the truth is a question that can be resolved only by the learned trial Court upon recording of evidence.

9. Admittedly, no independent witness is stated to have witnessed the applicants administer poison to the deceased. No poisonous tablets or other incriminating articles have been recovered from either applicant. The prosecution principally relies on the alleged disclosure attributed to the deceased and on the statements of the witnesses recorded under Section

² *Ehsan Ullah v. The State* (2012 SCMR 1137)

161, Cr.P.C. The disclosure so attributed is oral; it was not reduced to writing, nor was it recorded by a Magistrate or by the medical officer who attended the deceased. Whether it qualifies for admission under Article 46 of the Qanun-e-Shahadat Order, 1984, and what weight, if any, it may carry, are questions that can be answered only after the persons before whom it was allegedly made have been examined and subjected to cross-examination. The statements recorded under Section 161 Cr.P.C., for their part, are neither substantive evidence nor sacrosanct. The evidentiary worth and reliability of such material can properly be determined only after the witnesses are examined and cross-examined at the trial.

10. The post-mortem examination disclosed no external injuries or signs of violence. Although the absence of external injuries may, by itself, be consistent with poisoning, the medical evidence does not independently connect the applicants to the alleged administration of poison. Thus, while the chemical evidence establishes the cause of death, it does not identify the person responsible for administering the poison.

11. The prosecution also relies on the alleged earlier sexual assault and the subsequent private *faisla* as furnishing the motive for the occurrence. However, the DNA report dated 19.05.2026 records that male DNA, semen stains or sperm fractions were not detected on the vaginal and anal swabs of the deceased. The said report may not, by itself, conclusively determine the allegation under Section 376, P.P.C., but it is a relevant circumstance when tentatively assessing the alleged background and motive relied upon by the prosecution. Significance attaches to such a report for the reason that the Supreme Court, in **Salman Akram Raja**³, directed that in cases of rape the administration of DNA tests and the preservation of DNA evidence be treated as mandatory and in **Salman Mushtaq** (supra) the failure of the prosecution to attend to that aspect was reckoned as a circumstance telling against it at the bail stage. Where such evidence has in fact been collected and has yielded a negative result, that result cannot be left out of consideration while forming a tentative view of the accusation.

12. The alleged private *faisla* and the circumstances in which it is said to have been convened are matters requiring proof. At this stage, the alleged motive cannot be treated as an established circumstance, as its very foundation is subject to determination at the trial. Motive, moreover, is

³ *Salman Akram Raja and another v. Government of Punjab through Chief Secretary, and others* (2013 SCMR 203)

a double-edged weapon; where the motive set up by the prosecution is itself in controversy, it cannot at the same time be pressed into service as material sufficient to deny the concession of bail.

13. The fact that both applicants have been assigned a joint role does not, in the circumstances of the present case, dispense with the need for further inquiry. No direct ocular account of the alleged administration of poison is available, nor has any recovery connecting either applicant to the poisonous substance been effected. Whether the applicants acted in furtherance of a common intention or pursuant to any prior agreement within the meaning of Section 120-B P.P.C. is likewise a matter to be determined on evidence. An omnibus role assigned jointly to more than one accused, unsupported by any independent account of the act itself, does not, by itself, furnish the reasonable grounds contemplated by Section 497(1) Cr.P.C.

14. The delay in registration of the F.I.R. has also been considered. The deceased expired at about noon on 27.07.2025, whereas the F.I.R. was registered on 28.07.2025 at about 1630 hours. Although the prosecution has furnished certain circumstances explaining the intervening period, the delay assumes some significance when considered alongside the initial version treating the death as an apparent suicide and the subsequent allegation of homicidal poisoning. Its ultimate effect, however, is a matter for determination at the trial.

15. It may also be observed that nothing has been placed on record to suggest that the applicants are previous convicts, or that they are hardened, desperate or habitual offenders, or that there is any likelihood of their absconding, reoffending, tampering with the prosecution evidence or influencing the prosecution witnesses. These are amongst the considerations which, on the authority of **Salman Mushtaq** (supra), a Court is required to weigh when dealing with a plea for bail, and none of them operates against the applicants on the material presently available.

16. Thus, while the prosecution has produced material establishing that the deceased died of aluminium phosphide poisoning, the crucial link between the applicants and the administration of such poison remains to be tested. The initial account of the occurrence, the absence of any direct ocular account, the non-recovery of the poisonous substance, the nature of the alleged disclosure and the circumstances surrounding the alleged

motive, including the negative DNA findings, cumulatively call for further inquiry.

17. At this stage, the Court is not called upon to determine whether the death was necessarily suicidal or whether the applicants are innocent. The limited question is whether, on the material presently available, the applicants' guilt can reasonably be said to be established for the purpose of refusing bail. In my tentative assessment, the material requires further inquiry within the meaning of Section 497(2) Cr.P.C. It need hardly be added that the gravity of the accusation, however serious it may be, cannot, by itself, supply the deficiency in the material connecting the applicants with the commission of the offence.

18. Consequently, the instant criminal bail application is **allowed**. Both applicants are admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees two hundred thousand) each and a P.R. bond in the like amount, to the satisfaction of the learned trial Court. However, it is made clear that, in the event the applicants misuse the concession of bail, or attempt in any manner to influence the prosecution witnesses or to delay the conclusion of the trial, the complainant as well as the State shall be at liberty to move for cancellation of bail under Section 497(5) Cr.P.C.

19. The observations made herein are tentative, confined solely to the determination of the present bail application, and shall not prejudice either party or influence the learned trial Court in deciding the case on the merits after recording and appreciating the evidence in accordance with law.

J U D G E

Abdul Basit