IN THE HIGH COURT OF SINDH CIRCUIT COURT AT HYDERABAD

Criminal Bail Application No.S-833 of 2025

Applicant	:	Abid son of Allah Warayo through Mr. Safdar Ali Lakhair, Advocate
Complainant/ State	:	Qurban Ali son of Muhammad Hashim Chandio through Ms. Sana Memon, Assistant Prosecutor General, Sindh
Date of hearing	:	02.10.2025
Date of Order	:	02.10.2025

O R D E R

Jan Ali Junejo, J.- Through the present application filed under Section 497, Cr.P.C., the applicant, Abid son of Allah Warayo, seeks post-arrest bail in Crime No. 03 of 2025 registered at Police Station Kotri for offences punishable under Sections 302, 147, 148, 149, 504, and 337-H(ii), PPC. The earlier bail application filed by the applicant before the learned Sessions Court, which was assigned to the learned Additional Sessions Judge-II, Jamshoro at Kotri, was dismissed vide order dated 06.05.2025. Hence, the applicant has approached this Court for the same relief.

2.   The prosecution case, as set out in the FIR lodged on 05.01.2025 at 2230 hours by complainant Qurban Ali, is that there existed a matrimonial dispute between Mst. Husina, daughter of Mst. Hakim Zadi, and her husband Mir Chandio, who had contracted a court marriage about three months prior to the incident. Due to differences between them, Mst. Husina had filed a family suit for dissolution of marriage by way of Khula, which was pending adjudication.

3.   On 04.01.2025, the complainant, along with his family members and relatives, was present at his house when the accused persons, namely Amir, Alim alias Chagli, Shabir, Shahid, Mir, Abid (present applicant), and one Salim Magsi, allegedly armed with pistols and a danda, forcibly entered the complainant's house. They demanded to take away Mst. Husina, and upon resistance, accused Amir Chandio fired upon complainant's wife Mst. Sadori, who died on the spot; accused Alim alias Chagli fired upon Ahsan Ali, the complainant's son, who later succumbed

to injuries; accused Shabir Chandio fired upon Mst. Hakim Zadi, who also died on the spot; and accused Mir Chandio and others fired upon other family members, causing injuries. The complainant alleged that the applicant Abid Chandio, armed with a danda, was among the assailants and shared the common object of the unlawful assembly which committed the brutal murders.

4.   The applicant was subsequently arrested, and after completion of the usual investigation, challan was submitted before the competent court of law. His bail plea was declined by the learned Sessions Court, leading to the present proceedings.

5.   Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in this case due to mala fide intention and previous enmity. He submitted that no specific overt act has been attributed to the applicant in the FIR except that he was allegedly armed with a danda. It was further argued that no recovery has been effected from his possession, and the allegation against him is general in nature, attracting the rule of further inquiry as contemplated under Section 497(2) Cr.P.C. He further maintained that the applicant is merely a shopkeeper, the sole breadwinner of his family, and his continued detention serves no fruitful purpose as the investigation has been completed and challan submitted. Lastly he prayed for grant of bail.

6.   Conversely, the learned A.G.P. for the State vehemently opposed the grant of bail and submitted that the applicant, along with his co-accused, formed an unlawful assembly duly armed with deadly weapons, entered the house of the complainant, and in furtherance of their common object, committed multiple murders and caused injuries to several persons. She argued that the role of the applicant cannot be segregated at this stage as the principle of vicarious liability under Section 149 PPC squarely applies. She contended that sufficient material is available on record connecting the applicant with the commission of the heinous offence, hence he is not entitled to the concession of bail.

7.   I have given due consideration to the arguments advanced by learned counsel for the respective parties and have carefully perused the record. The record reflects that the incident in question occurred within the four walls of the complainant's house, resulting in three deaths—namely Mst. Sadori, Mst. Hakim Zadi, and Ahsan Ali—and multiple firearm injuries to others. The allegations in the FIR are not only specific but supported by the statements of eye-witnesses recorded under Section 161 Cr.P.C., who

have consistently implicated the present applicant as a member of the armed group that invaded the complainant's house.

8.   Although the applicant was allegedly armed with a danda and not a firearm, his active participation as part of the unlawful assembly is apparent from the record. The prosecution material prima facie shows that the applicant, along with others, shared a common object within the meaning of Sections 147, 148, and 149 PPC, which culminated in a triple murder and injuries to several others. At the bail stage, the Court is not to assess the truthfulness of evidence but to see whether there exist reasonable grounds to believe that the accused is connected with the offence alleged. The material so far collected by the prosecution reasonably connects the applicant with the commission of the offence.

9.   Once it is established that an unlawful assembly had a common object, it is not necessary to prove that every member of the assembly committed an overt act. For the purpose of attracting vicarious liability under this provision, the responsibility of the other members for an offence committed during the course of the occurrence depends on whether they knew beforehand that the offence actually committed was likely to be committed in furtherance of the common object. The Supreme Court of India, while interpreting the concept of "common object" in the case of **Ramachandran and others v. State of Kerala (2012 SCMR 1156)**, observed that: *"However, once it is established that the unlawful assembly had common object, it is not necessary that all persons forming the unlawful assembly must be shown to have committed some overt act. For the purpose of incurring the vicarious liability under the provision, the liability of other members of the unlawful assembly for the offence committed during the continuance of the occurrence, rests upon the fact whether the other members knew beforehand that the offence actually committed was likely to be committed in prosecution of the common object"*.

10.   The plea of alibi or innocence raised by the applicant involves factual determinations that can only be adjudicated upon after the recording of evidence during trial. Likewise, the contention regarding false implication due to prior enmity also entails disputed questions of fact, which cannot be resolved at this preliminary stage. The allegations pertain to a brutal triple murder, an offence falling within the prohibitory clause of Section 497, Cr.P.C., punishable with death or imprisonment for life. The heinous nature of the offence, coupled with the applicant's alleged active participation as a member of the unlawful assembly, disentitles him to the concession of bail.

11.   The principle of further inquiry under Section 497(2) Cr.P.C. is not attracted in the present case as there exist sufficient reasonable grounds to believe that the applicant is connected with the offence alleged against him. Grant of bail in such serious offences at this stage would not only amount to pre-judging the evidence but may also adversely affect the prosecution case.

12.   In view of the above discussion, I am of the considered view that the Applicant has failed to make out a case for grant of post-arrest bail. Consequently, the Criminal Bail Application No.S-833 of 2025 stands dismissed. It is, however, clarified that the observations made herein are purely tentative in nature and shall not prejudice the case of either party during the trial, which shall proceed independently on its own merits. These shall constitute the detailed reasons for the short order announced on 02.10.2025.

JUDGE