

**IN THE HIGH COURT OF SINDH CIRCUIT COURT  
AT HYDERABAD**

**Criminal Bail Application No.S-905 of 2025**

Applicant : Asghar Ali son of Mehar Sahito  
through Mr. Sanaullah Bhangwar,  
Advocate

Respondent : The State through Mr. Ghulam  
Murtaza, Assistant Prosecutor  
General, Sindh along with SIP-Irshad  
Ali Shahani of Police Station Tando  
Muhammad Khan

Date of Hearing : 19.09.2025

Date of Order : 19.09.2025

**ORDER**

**Jan Ali Junejo, J.-** The applicant/accused seeks post-arrest bail under Section 497 Cr.P.C. in Crime No.24 of 2024 of Police Station Tando Muhammad Khan, registered for offences under Sections 302 and 34 PPC. His earlier application for bail was dismissed by the learned Additional Sessions Judge-I, Tando Muhammad Khan vide order dated 28.11.2024 in Sessions Case No.09 of 2024.

2. The FIR was lodged on 09.04.2024 at 1400 hours by Mst. Ayesha wife of deceased Karim Bux. As per the FIR, on 08.04.2024 at about 1100 hours, in the street of village Khamiso Sathio, the deceased — late Karim Bux — was attacked in broad daylight by three persons: Mehar (allegedly armed with a hatchet), Asghar (the present applicant — allegedly armed with a lathi) and Zulfiqar (alleged to be armed with a lathi). The complainant alleges that Mehar struck a hatchet blow near the heart of the deceased while the applicant and Zulfiqar inflicted lathi blows. The injured was shifted to Civil Hospital, Tando Muhammad Khan, where he was declared dead. The post-mortem report on record records two injuries and attributes the cause of death to cardiac arrest as a result of chest trauma. The occurrence, as narrated, resulted in registration of Crime No.24/2024 under Sections 302/34 PPC at the said Police Station.

3. Mr. Sanaullah Bhangwar, the learned counsel for the applicant, fervently argued for the grant of bail, advancing the following precise

submissions: (i) The applicant is innocent and has been falsely implicated due to pre-existing enmity stemming from a land dispute, which casts a shadow of doubt over the prosecution's story. (ii) There is an unexplained and inordinate delay of approximately twenty-seven (27) hours in the lodging of the FIR, despite the police station being only 18-19 kilometres away from the place of occurrence. This delay suggests deliberation and concoction. (iii) A material and irreconcilable conflict exists between the ocular account and the medical evidence; the FIR narrates an attack involving multiple blows from a hatchet and lathis, whereas the post-mortem report records only two injuries, warranting further inquiry into the actual events. (iv) All the alleged eyewitnesses, including the complainant, are close relatives of the deceased and are therefore highly interested and partisan parties, rendering their testimony inherently suspect. (v) On the cumulative strength of these grounds – delay, enmity, medical-ocular conflict, and interested witnesses – a clear case for "further inquiry" within the meaning of Section 497(2) Cr.P.C. is made out, entitling the applicant to bail.

4. Mr. Ghulam Murtaza Mallah, the learned Assistant Prosecutor General, vehemently opposed the bail application, presenting the following contra arguments: (i) The applicant is not generally implicated but is specifically named in the FIR with a clear and definite role of actively participating in the assault by inflicting lathi blows on the deceased. (ii) The incident occurred in broad daylight in a public street, leaving no room for mistaken identity, and the applicant's presence at the scene is unequivocally established. (iii) The ocular account is prima facie corroborated by the medical evidence, as the post-mortem report confirms chest trauma leading to cardiac arrest, consistent with the alleged attack. Any perceived discrepancies are minor and are a matter for trial. (iv) The principle of common intention under Section 34 PPC is squarely attracted as the applicant, along with his co-accused, acted in concert to cause the death of the deceased; the liability is joint and several. (v) The case falls squarely within the prohibitory clause of Section 497 Cr.P.C., and the applicant cannot claim parity as the bail application of his identically situated co-accused, Zulfiqar, has already been dismissed by this Court.

5. The legal principles governing bail in non-bailable offences punishable with death or life imprisonment, such as an offence under Section 302 PPC, are well-settled. The Court, at the bail stage, is not to conduct a mini-trial but must undertake a tentative assessment of the evidence on record. The touchstone is whether the material placed before the Court discloses reasonable grounds for believing that the accused is

guilty of an offence attracting the prohibitory clause. If such prima facie grounds exist, bail must be refused. An exception is carved out under Section 497(2) Cr.P.C., which permits the grant of bail if the case is deemed one of "*further inquiry*". This implies that the evidence is so doubtful, conflicting, or weak that it necessitates a deeper investigation during the trial before a finding of guilt can be entertained.

6. Having heard the learned counsel for the parties and having perused the case record, including the FIR, the post-mortem report, the order of the learned trial court, as well as the order of this Court in the case of the co-accused, it is observed as follows:

The applicant's name finds clear and specific mention in the FIR with a distinct role assigned to him, i.e., the attribution of a particular weapon (lathi) and the specific act of inflicting blows. This is not a case of vague, omnibus, or generalized implication, but rather one where the applicant has been individually singled out for an overt act contributing to the occurrence. At the stage of deciding bail, such a direct and specific allegation carries considerable weight against the accused and militates against the grant of concession. The argument of material contradictions in the prosecution's case is also devoid of merit. The post-mortem report reflects that the cause of death was "cardiac arrest as a result of trauma to the chest," which is fully consistent with the prosecution's case alleging a violent assault wherein a hatchet blow was delivered on the chest and the applicant inflicted lathi blows. The medical findings, therefore, do not discredit the ocular account but, rather, provide supporting corroboration. The contention raised regarding the alleged inconsistency between the number of blows attributed by the eyewitnesses and the injuries noted in the post-mortem examination is not persuasive at this stage. It is a settled principle that the number of external injuries observed in the medical report may not always correspond to each and every blow described by witnesses, since multiple strikes in close succession or on the same part of the body can culminate in a single visible injury or composite trauma. Such aspects fall within the domain of trial, where evidence is to be recorded and tested through cross-examination. At the bail stage, these contentions cannot dismantle the prima facie case established against the applicant. Accordingly, in view of the specific role attributed in the FIR, the medical evidence corroborating the prosecution version, and the lack of any material contradiction striking at the root of the case at this preliminary stage, the applicant has not made out a case for the grant of bail.

7. The delay of about 27 hours has been plausibly explained. The immediate priority of the family was to shift the injured to the hospital,

where he was declared dead, and thereafter to perform his burial rites. In the tragic and chaotic aftermath of a homicide, such a delay is not unusual or fatal to the prosecution case, especially when the incident is reported promptly after the immediate exigencies are addressed. The mere fact that the eyewitnesses are relatives of the deceased does not, by itself, render their testimony unreliable or false. It is a settled principle that the evidence of interested witnesses cannot be discarded outright; its credibility is a matter for the trial court to determine after observing their demeanor and subjecting their accounts to cross-examination. At the bail stage, their statements provide a prima facie foundation for the prosecution's case. The FIR narrates a coordinated attack by three individuals armed with deadly weapons, indicating a common intention to cause serious harm, if not death, to the deceased. The applicant, by actively participating with a lathi, is prima facie liable for the consequences of the joint action. The fact that the fatal blow may have been inflicted by a co-accused does not absolve the applicant of liability at this stage.

8. On a holistic and tentative assessment of the record, the prosecution has successfully set up a prima facie case connecting the applicant to the commission of a heinous offence. The grounds urged by learned counsel for the applicant, though not without arguability, do not either individually or cumulatively bring the matter within the ambit of “*further inquiry*” as contemplated under Section 497(2), Cr.P.C. Such contentions pertain to matters that can only be conclusively determined after a full-dressed trial, once the evidence is recorded and tested through cross-examination.

9. For the comprehensive reasons elaborated above, this Court finds no merit in present bail application. The same is accordingly dismissed. It is hereby unequivocally clarified that any observations made herein are tentative in nature, are confined strictly to the adjudication of this bail application, and shall not, in any manner, influence the learned trial Court during the final determination of the case on its merits. These are the reasons of the Short Order dated: 19-09-2025.

**JUDGE**