

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1865 of 2025

Applicant : Mudasir Ilyas son of Muhammad Ilyas
through Mr. Irshad Ahmed Jatoi,
Advocate

Respondent : The State, through Ms. Rubina Qadir,
Additional Prosecutor General, Sindh

Date of hearing : 14.10.2025

Date of decision : 14.10.2025

ORDER

Jan Ali Junejo, J.- The applicant seeks post-arrest bail in connection with Crime No. 171 of 2025, registered under Sections 302, 324 and 34 PPC at Police Station Bahadurabad, Karachi. The applicant's plea for post-arrest bail was earlier declined by the learned Additional Sessions Judge-VI, Karachi East, *vide* Order dated 16.07.2025.

2. The genesis of the present case lies in an unfortunate incident which allegedly took place on the evening of 1st May 2025. According to the First Information Report (FIR), the applicant, Mudasir Ilyas, accompanied by co-accused Saad Sohail, Imran Gazyani, and an unidentified relative, arrived at "Khan Motors", a workshop owned by the complainant located at Multi Market, Ameer Khusro Road, Bahadurabad. The prosecution alleges that the group initiated the confrontation by teasing an individual named Iqrar. When Iqrar objected to their conduct, a verbal altercation ensued between the parties. The situation escalated dramatically when one of the co-accused, Imran Gazyani, allegedly produced a firearm and indiscriminately opened fire. This volley of gunfire resulted in catastrophic consequences: one individual, Bakhtiar, sustained a fatal gunshot wound, while the bullet scraped-passed the head of Iqrar. Following the shooting, all the accused persons, including the present applicant, allegedly fled from the scene of the crime. Consequently, the aforementioned FIR was registered for offences punishable under Sections 302, 324, 34 Pakistan Penal Code at Police Station Bahadurabad.

3. The learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the case. He argued that no

specific role was assigned to the applicant, who was not even alleged to have abused the deceased or the injured. He emphasized that the individual act of co-accused Imran Gazyani did not establish common intention, and highlighted that the applicant was empty-handed and displayed no aggression during the incident. Further, he pointed out that witness statements under Section 164 Cr.P.C. contradicted the FIR, making the case one of further inquiry. He also stated that the investigation was complete and the applicant was no longer required for further investigation, and thus prayed for grant of bail.

4. The learned counsel for the complainant opposed the grant of bail, emphasizing the seriousness of the offence involving the loss of an innocent life and the pending arrest of the main culprit. He likely stressed the gravity of the incident and the applicant's alleged involvement as part of a group that initiated the quarrel leading to the shooting, arguing that this warranted the denial of bail.

5. The learned A.P.G., representing the State, opposed the bail application, underscoring the heinous nature of the offence under Sections 302/324/34 PPC. She likely argued that the applicant's presence and participation in the initial quarrel demonstrated shared intent, and highlighted that the forensic examination of video evidence was still pending, which could further implicate the accused. She contended that the applicant's custodial interrogation might still be necessary and that the allegations were sufficient to refuse bail at this stage.

6. I have carefully considered the submissions advanced by the learned counsel for both parties and examined the available record with due circumspection, as permissible at the bail stage, and with their valuable assistance. A tentative assessment of the FIR and other material on record reveals that the applicant has not been assigned any specific firing role, nor has any weapon been recovered from him. The allegation against the applicant is limited to accompanying the principal assailant and engaging in a quarrel with the injured person prior to the firing incident. Whether such conduct constitutes participation with a common intention is a matter that can only be determined after recording evidence at trial. It is well-settled that mere presence of an accused at the scene of occurrence, without proof of an overt act or *mens rea*, does not per se attract liability under Section 34, P.P.C. At this stage, the available material does not disclose any direct act, pre-concert, or shared intent on the part of the applicant. The question of his culpability under Section 34, P.P.C. thus requires deeper judicial scrutiny, which is not permissible at the bail stage. The investigation has been substantially completed, and

the challan has been submitted. The applicant has been in custody since his arrest, surrendered voluntarily, and there is no allegation of tampering with evidence or influencing witnesses.

7. On the other hand, this Court has also taken into consideration the grounds advanced for the refusal of bail — namely, the heinous nature of the offence, the loss of life of an innocent person. Undoubtedly, these are serious factors that cannot be lightly disregarded. However, the gravity of the offence alone is not a decisive ground to deny bail when the available material does not, at this stage, establish the applicant's specific role or requisite *mens rea* in the commission of the offence. The law requires the Court, even in heinous offences, to assess whether the evidence presently available creates reasonable grounds for believing that the accused participated in the crime with a common intention or shared design. In the present case, the record does not disclose any direct act or overt participation by the applicant in the fatal occurrence. The allegation of mere presence or prior quarrel, without evidence of concert or facilitation, does not suffice to attract the application of Section 34, P.P.C. It is a settled principle of criminal jurisprudence that the mere presence of an accused at the scene of occurrence, or association with the principal offender, does not by itself establish common intention unless there is cogent material showing active participation or a prior meeting of minds. Reliance in this regard is placed on the case of ***Bashir Ahmed and others v. The State and another (2022 SCMR 1187)***, wherein the Honourable Supreme Court of Pakistan was pleased to hold that: "*Mere presence of an accused with an accused who commits the crime would not constitute his common intention unless there is an evidence referring to the criminal act of that accused committed in furtherance of common intention with the other accused*".

8. Where no direct role is attributed to an accused and the evidence against him is tentative in nature, his case squarely falls within the ambit of *further inquiry*, notwithstanding the gravity or seriousness of the charge. In the same context, the limited role assigned to the present applicant renders his continued incarceration pending trial unwarranted. Accordingly, this Court is of the view that no reasonable grounds exist at this stage to believe that the applicant has committed an offence punishable with death or imprisonment for life. However, the material so far collected does warrant *further inquiry* within the meaning of Section 497(2), Cr.P.C.

9. For the reasons discussed hereinabove, this Criminal Bail Application is allowed and Applicant – Mudasir Ilyas son of Mohammad

Ilyas is granted bail subject to his furnishing a solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand Only) and a P.R. bond in the like amount to the satisfaction of the learned Trial Court. The observations made herein are tentative in nature and are only for the purpose of this Order, and shall not prejudice the case of either party at the trial. These are the detailed reasons for the short order dated 14.10.2025.

JUDGE