

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1402 of 2025

Applicant : Sabir Ali son of Safdar Ali, Safdar Yaqoob son of Muhammad Yaqoob and Mst. Saima wife of Sabir Ali through Mr. Zulfiqar Ali Mashori, Advocate

Complainant : Muhammad Ishaq son of Faqir Muhammad through Mr. Aurangzeb, Advocate

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

Date of hearing : 12.11.2025

Date of decision : 12.11.2025

ORDER

Jan Ali Junejo, J. - Through this order, I intend to decide the present Criminal Bail Application moved under Section 497 Cr.P.C. by Applicants/Accused namely (i) Sabir Ali S/o. Safdar Ali, (ii) Safdar Yaqoob S/o. Muhammad Yaqoob, and (iii) Mst. Saima W/o. Sabir Ali in case arising out of FIR No. 462 of 2024, registered under Sections 302, 201, 34 PPC at Police Station Shah Latif Town, Karachi. Earlier, post-arrest bail of Applicants/Accused No.1 and 2 (Sabir Ali and Safdar Yaqoob) was declined by the learned IVth Additional Sessions Judge, Malir, Karachi, through the impugned order dated 09.05.2025 in Criminal Bail Application No. 1622 of 2025; likewise, post-arrest bail of Applicant/Accused No.3 (Mst. Saima) was declined by the same Court vide order dated 27.02.2025 in Criminal Bail Application No. 575 of 2025.

2. Succinctly, the prosecution case as set forth in the FIR lodged by complainant Muhammad Ishaq S/o. Faqir Muhammad on 29.04.2024 at 2130 hours is that his adult son, Mansoor @ Munawar Ali, who had been living in Karachi and allegedly cohabiting with a lady named Salma at Quaidabad, left his native village on 17.04.2024 for Karachi and thereafter went missing. On 24.04.2024, the complainant received a call from ASI Arshad Nawaz of P.S. Shah Latif Town informing him that an unidentified dead body recovered on 21.04.2024 had been placed at the Edhi Centre following medico-legal formalities. The complainant's relative received the body on supurdgi and burial took place at Tando Adam on 25.04.2024. The complainant then lodged the FIR suspecting said Salma and her

unknown associates for having murdered his son and disposed of the body near bushes/railway track in Gulistan Society, Quaidabad. The investigation was carried out; the Applicants were arrested; and final challan has been submitted.

3. Learned counsel for the Applicants submits that none of the Applicants is nominated in the FIR and their implication is the result of subsequent investigation. He argues that the alleged statement of a co-accused is inadmissible in law under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984 unless independently corroborated. He further contends that the FIR has been lodged after an unexplained delay of about eight days, which strikes against the credibility of the prosecution version. He argues that no private or independent witness has been associated in violation of Section 103 Cr.P.C., nor has any incriminating recovery been effected from the Applicants. He contends that neither CDR nor location data has been produced to connect the Applicants with the offence, while prior matrimonial discord, supported by documentary record, furnishes a motive for false implication. He submits that the medical evidence does not establish the identity of the assailant and that the case is one of further inquiry under Section 497(2) Cr.P.C. He finally prays that the Applicants, being not previous convicts and ready to furnish surety, be admitted to bail after arrest.

4. Learned counsel for the complainant has opposed the bail application. He contends that the offence is brutal and heinous in nature and clearly falls within the prohibitory clause of Section 497 Cr.P.C., as the deceased was murdered and his body was deliberately concealed. He argues that the deceased had close association with co-accused Salma and that the available chain of circumstantial evidence connects the present Applicants with the commission of the offence. He further contends that the delay in lodging the FIR has been plausibly explained due to the process of identification and burial of the dead body. He argues that release of the Applicants on bail would result in intimidation of witnesses and miscarriage of justice. He therefore prays that the bail application be dismissed.

5. Learned Additional Prosecutor General for the State has adopted the arguments advanced by the complainant. She contends that sufficient incriminating material is available against the Applicants, including the confessional/inculpatory statement of a co-accused, which is supported by the medical evidence reflecting death by strangulation. She argues that the offence entails capital punishment and thus squarely attracts the

prohibitory clause of Section 497 Cr.P.C., leaving no room for further inquiry. She further contends that the delay in FIR stands satisfactorily explained and that the likelihood of absconcence and tampering with prosecution evidence cannot be ruled out if bail is granted. She finally prays that the bail application be dismissed.

6. I have heard learned counsel for the parties and examined the record with the tentative view mandated at bail stage. It is undisputed that none of the Applicants was nominated by name in the FIR; the accusation against them surfaced during investigation, substantially predicated on statements attributed to a co-accused. It is an admitted position on record that the implication of the present applicant primarily stems from the alleged confession of a co-accused. Under Article 43 of the Qanun-e-Shahadat Order, 1984, such confession constitutes substantive proof only against its maker; as against a co-accused, the Court may merely take it into consideration as a piece of circumstantial evidence. By its very nature, therefore, a co-accused's confession is a weak type of evidence and cannot, in the absence of strong and independent corroboration, furnish reasonable grounds for believing in the guilt of the accused for the purpose of denial of bail. At this stage, the prosecution has failed to place on record any independent incriminating material of sterling quality to corroborate the said confession. Consequently, the reliance placed upon the co-accused's confession, by itself, brings the case of the present applicant within the domain of further inquiry as contemplated under Section 497(2) Cr.P.C. In the case of ***Raja Muhammad Younas v. The State (2013 SCMR 669)***, the Honourable Supreme Court of Pakistan was pleased to grant bail to the accused, who had been implicated on the basis of the statement of a co-accused, while observing that: "*After hearing the counsel for the parties and going through the record, we have noted that the only material implicating the petitioner is the statement of co-accused, Amjad Mahmood, Constable. Under Article 38 of Qanun-e-Shahadat Order, 1984, admission of an accused before police cannot be used as evidence against the co-accused*". Presently, the prosecution has not placed before this Court any independent corroborative material of sterling quality such as CDRs, CCTV, recoveries, last-seen account by a neutral witness, or forensic linkage to connect the Applicants individually with the homicidal act or alleged concealment. Medical evidence confirms the cause of death but does not identify the assailant(s); such evidence, by itself, cannot fasten liability upon a particular accused.

7. As regards the delay of approximately eight days in the registration of the F.I.R., the complainant attributes the same to late intimation and subsequent identification of the dead body. While such explanation cannot be termed as frivolous, the very existence of this delay in a case resting upon circumstantial evidence necessitates closer and more cautious scrutiny of the investigative collection against the present Applicants. On the available material before this Court, CDR/location analysis allegedly tying the Applicants with co-accused Salma or with the locus in quo has not been produced; no independent mashir or public witness has been associated to any recovery connecting the Applicants; and no eye-witness account has surfaced. These features, cumulatively, render the prosecution case, at this stage, falling within the ambit of "further inquiry" contemplated by Section 497(2) Cr.P.C.

8. At bail stage, the Court is not to conduct a meticulous appreciation of evidence but to assess whether "reasonable grounds" or "further inquiry" exist. On the present record, the case against the Applicants is, at best, a matter of further inquiry. The Applicants are reportedly not previous convicts, and there is no concrete material placed to demonstrate likelihood of abscondence or tampering that cannot be addressed through appropriate conditions.

9. The learned Trial Court declined bail to the Applicants vide orders dated 27.02.2025 and 09.05.2025, *inter alia*, noting the seriousness of the offence and relying upon an inculpatory statement of a co-accused read with medical evidence. Before this Court, however, the prosecution has not supplemented the record with independent corroboration such as CDRs, meaningful recoveries, or neutral last-seen witnesses specifically connecting these Applicants. In the absence of such material, and bearing in mind the tentative standard, the Applicants have succeeded in bringing their case within Section 497(2) Cr.P.C.

10. For the foregoing reasons, the Applicants have made out a case for further inquiry within the meaning of Section 497(2) Cr.P.C. Consequently, this Criminal Bail Application is allowed. Applicants/Accused (i) Sabir Ali S/o. Safdar Ali, (ii) Safdar Yaqoob S/o. Muhammad Yaqoob, and (iii) Mst. Saima W/o. Sabir Ali are admitted to bail after arrest subject to the following terms and conditions: Each Applicant shall furnish 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 trial Court.

11. Needless to observe that the above observations are tentative in nature and shall not prejudice the case of either party at trial. These are the detailed reasons of the Short Order dated: 12-11-2025.

JUDGE

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