

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Crl. Bail Application No.S-120 of 2025

Applicant: Jumoon s/o Kareem Rahimoon
Through Mr. Ghulam Mustufa Channa and
Mr. Afzal Kareem Virk, Advocates.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, Deputy PG.

Complainant: Asadullah s/o Ghazanfar Ali Khoso
Through Mr. Abdul Aziz Memon
& Mr. Azhar Arain advocates.

Crl. Bail Application No.S-208 of 2025

Applicant: Liaquat Ali s/o Jumoon Rahimoon
Through Mr. Ghulam Mustufa Channa,
Advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, Deputy PG.

Complainant: Asadullah s/o Ghazanfar Ali Khoso
Through Mr. Abdul Aziz Memon &
Mr. Azhar Arain advocates.

Date of hearing: 13.08.2025

Date of order: 13.08.2025

O R D E R

Amjad Ali Sahito, J: By this single order, I intend to dispose of both aforementioned bail applications, whereby the applicants/accused namely Jumoon Rahimoon and Liaquat Ali Rahimoon, seek post arrest bail in same Crime No.215 of 2024 for offence punishable under sections 302, 120-B, 34 PPC registered at PS Umerkot City, after their bail plea has been declined by learned Sessions Judge, Umerkot vide orders dated 10-05-2025 and 30-05-2025 respectively.

2. The details and particulars of the F.I.R are already available in bail applications and the F.I.R, as such, need not to reproduce the same hereunder.

3. Per learned counsel, though the names of the applicants/accused transpire in the F.I.R but in two consequent investigations, first conducted by the I.O of the case namely Inspector Ashok Kumar and second conducted by Joint Investigation Team comprising of DSP Tasawar Hussain Jat SDPO Umerkot (Head) and Inspector Ashok Kumar, SHO P.S Soofi Faqeer (Member / I.O) and SIP Muhammad Anwaar SHO P.S Shadi Palli (Member) constituted under the order of the S.S.P, Umerkot, have exonerated both the applicants/accused with the commission of alleged offence on the ground that at the time of alleged incident, they were not present at the place of incident. During course of arguments, he invited attention to the statements, which were recorded by the first I.O of the case, wherein accused Dil Qarar, owner of the Gun; Nathu, driver of the car and another witness Muhammad Hanif, had stated that at the time of incident both applicants were not present at the place of incident. He further pointed out the detail of investigation and stated that deceased Morr demanded pistol from the son of accused Dil Qarar namely Nadeem, who told him that he has no pistol and then deceased Morr pressurized him to provide the weapon to him whether license or unlicensed. Finally son of co-accused Dil Qarar namely Nadeem made call to his father Dil Qarar, who brought his gun and handed over the same to deceased Morr. He also invited attention that gun shot was hit on the thigh which crossed from other side. He further submitted that applicants are in jail for last about one year and prayed for grant of bail to the applicants/ accused. In support of his contentions, he has relied upon case law i.e. Chaudhry Nadeem Sultan vs. The State through PG Punjab and another (2022 SCMR 663), Akhter Ali and others vs. State (PLD 2008 SC 269), Gulzada vs. Gul and another (2019 P Cr. L J 1627), Hajan and another vs. The State (2014 P Cr. L J 1123), Fahad Hussain and another vs. State through Prosecutor General Sindh *2023 SCMR 364), Zaigham Ashraf vs. The State and others (2016 SCMR 18), Resham Khan and another vs. The State through Prosecutor General Punjab, Lahore and another (2021 SCMR 2011).

4. On the other hand, Mr. Muhammad Azhar Arain advocate filed *vakalatnama* on behalf of complainant, which is taken on record; however, Mr. Abdul Aziz Memon advocate also signed the

same *vakalatnama* and argued that names of both applicants are appearing in the FIR with specific role that applicant Jumoon has fired upon deceased. He also submitted that eye witnesses namely Shahid and Asif in their statements under section 161 Cr.P.C have supported the version of the complainant. When it was confronted that whether both of the aforementioned eye witnesses are resident of same village? he submitted that they travelled in the same car. He further submitted that ocular account finds support from the medical evidence; however, police submitted report under section 173 Cr.P.C for an offence punishable under section 322 PPC, but learned Magistrate did not agree with the same report and took cognizance of the offence. Subsequently said order was challenged before this Court and same was maintained, as such sufficient material is available on record to connect the applicants with the commission of alleged offence. Lastly, he prayed for dismissal of bail application. In support of his contentions, he has relied upon case of Mumtaz vs. The State (2012 SCMR 556), Itbar Muhammad vs. The State and others (2024 SCMR 1576), Sher Muhammad vs. The State (2008 SCMR 1451), Shoukat Ilahi vs. Javed Iqbal and others (2010 SCMR 966), Liaquat Ali vs. The State (PLD 1994 Supreme Court 172), Muhammad Arshad vs. The State and another (1997 SCMR 1275), Syed Ashiq Hussain Shah vs. The State (2011 P Cr. L j 1665) and Ch. Muhammad Aslam Jamil vs. The State (2007 P Cr.R. 159).

5. Learned Deputy P.G also supported the contentions raised by learned counsel for the complainant. He also filed statement alongwith certain documents, same is taken on record.

6. Heard and perused.

7. From the perusal of the record, it transpires that although the names of the applicants/accused are mentioned in the F.I.R. with specific allegations, that applicant Jumoon, after taking a gun from co-accused Dil Qarar, fired upon the deceased Ghazanfar Ali @ Morr, causing an injury to his thigh which subsequently resulted in his death, it is a settled proposition of law that the F.I.R. is not to be treated as a gospel truth, but merely as a document to set the criminal law in motion. Furthermore, from the plain reading of the

statements of prosecution witnesses Dil Qarar Mari, Muhammad Hanif, and Nathu Mal (the car driver, they were subsequently made an accused), it appears that initially the deceased Ghazanfar Ali @ Morr approached accused Dil Qarar Mari and demanded a pistol. At that juncture, Nadeem, the son of accused Dil Qarar, replied that he did not have a pistol at present. The deceased then pressurized him, and upon the request of Nadeem, partook of a meal at his house. Thereafter, Nadeem contacted his father/co-accused Dil Qarar, who brought a gun along with cartridges to the *otaque* of the applicants and handed the same over to the deceased.

8. The First Information Report (FIR) was lodged with a delay of approximately two days, for which no plausible explanation has been furnished by the complainant, despite the fact that the distance between the place of occurrence and the concerned police station is merely two kilometers. Although a specific allegation was attributed to the accused, assigning him the direct role of causing firearm injury to the deceased, the accused raised a plea of alibi which, upon investigation, was found to be substantiated. The Investigating Officer collected the Call Detail Records (CDR) of the accused's mobile phone, which established his presence at a location distant from the scene of the incident. The Investigating Officer collected an audio recording of a telephonic conversation between accused Jumoon, co-accused Liaquat son of Jumoon Rahmoon, and the deceased Ghazanfar Ali @ Morr. During the course of arguments, learned counsel for the applicants also played in Court a recording of a mobile phone conversation between the accused and the deceased. On the basis of said telephonic conversation, it stood established that the accused were not present at the place of occurrence at the relevant time. Relying upon this evidence. The Investigating Officer exonerated the applicants and placed their names in Column No. 2 of the police report submitted under Section 173, Cr.P.C. (Challan sheet).

9. The Investigating Officer of the case, namely Inspector Ashok Kumar, who was present in Court, deposed that after registration of the case, he conducted investigation, recorded the statements of eyewitnesses, obtained the Call Data Record (CDR) of the parties,

and secured the aforesaid telephonic conversation. He further stated that at the time of the incident, applicant Jumoon was not present at the place of occurrence, whereas his son, Liaquat Ali, was at his petrol pump. The Investigating Officer further disclosed that accused Dil Qarar had handed over his gun to the deceased Ghazanfar Ali @ Morr and, while attending to the call of nature, the accused Dil Qarar heard the sound of a gunshot. Upon returning to the otaque, he saw the deceased lying on a chair, having sustained a firearm injury. He immediately retrieved his gun and informed the legal heirs of the deceased. The Investigating Officer further stated that, according to the doctor's opinion, the deceased could have survived had he been shifted to the hospital without delay.

10. During the pendency of the investigation, the Senior Superintendent of Police, Umerkot, constituted a Joint Investigation Team (JIT) under the chairmanship of DSP Tasawar Hussain Jat, SDPO Umerkot. After conducting a detailed inquiry, the JIT also concluded that both applicants were not present at the scene of the occurrence at the material time. On the basis of such findings, the police submitted a final report under Section 322, PPC, indicating that the incident did not amount to intentional murder, and accordingly placed the names of the applicants in Column No. 2 of the challan sheet. Reliance is placed in the case of ***Nadeem Sultan v. The State (2022 SCMR 663), PLJ 2008 SC 269,***

11. It is a settled principle that there exists no absolute bar on considering the plea of alibi at the bail stage, for while adjudicating upon an application for grant or refusal of bail, the Court is not only to examine the material and evidence collected in support of the prosecution's case but is equally required to accord due consideration to the defence plea raised by the accused. In the present matter, the Investigating Officer has collected sufficient material substantiating the defence version of the accused persons and, on the basis of the said reports, has placed their names in Column No. 2 of the challan. Consequently, the case of the applicants/accused falls within the ambit of "further inquiry" as envisaged under sub-section (2) of Section 497, Cr.P.C. The applicants/accused have been in custody for approximately one

year, and no substantial progress has been made in the proceedings before the learned trial Court. In view thereof, the learned counsel for the applicants has succeeded in making out a case for the grant of bail under the aforesaid provision. Accordingly, the instant bail applications are allowed, and the applicants/accused, namely, Jumoon Rahimoon and Liaquat Ali Rahimoon, are admitted to bail, subject to their furnishing solvent surety in the sum of Rs. 200,000/- (Rupees two hundred thousand only) each, along with P.R. bonds in the like amount, to the satisfaction of the learned trial Court.

12. The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

****Saleem****