

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

Crl. Bail Application No.S-144 of 2025

Applicants: 1. Abdul Rehman S/o Shaukat Ali
2. Muhammad Qurban S/o Shaukat Ali,
3. Irfan Ali S/o Muhammad Khan,
Through Mr. Rao Faisal Ali, advocate.

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

Complainant: Rashid Ali S/o Muhammad Shafi,
Through Mr. Afzal Karim Virk, Advocate.

Crl. Bail Application No.S-151 of 2025

Applicant: Asif alias Bagu S/o Ashique Ali,
Through Mr. Rao Faisal Ali, advocate.

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

Complainant: Rashid Ali S/o Muhammad Shafi,
Through Mr. Afzal Karim Virk, Advocate.

Date of hearing: 20.08.2025

Date of order: 20.08.2025

ORDER

Amjad Ali Sahito, J: By this single order, I intend to dispose of both aforementioned bail applications, whereby the applicants/accused seek pre-arrest bail in same Crime No.17 of 2025 for offence punishable under sections 302, 324, 337-H(ii), 147, 148 and 149 P.P.C registered at PS Mirwah Gorchani, after their bail plea has been declined by learned Additional Sessions Judge-I/MCTC, Mirpurkhas vide order dated 27.05.2025.

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

3. Per learned counsel, the applicants/accused are innocent, and the complainant has falsely implicated the applicants in this case. He further submits that at the time of occurrence applicant Asif Ali was on duty with Airport Security Force, and no role of causing

injury has been attributed to accused Qurban; the alleged injuries caused by Asif Ali, Irfan, and Abdul Rehman were on the non-vital part of the body which does not constitute an attempt on life. He further pointed out that the medico-legal report of injured Sarfraz is not available in the police record, and no role of murder has been ascribed to the applicants. He further submits that one person namely Sajan lost his life due to assault by the complainant's party, and for that reason the applicant's side had already lodged FIR No.16/2017 on the same date. He further submits that despite knowing that Sajan had already been murdered the complainant falsely implicated applicant Abdul Rehman by assigning him the role of firing upon P.W. Zaffar. Lastly, he prayed for confirmation of the bail.

4. On the other hand, learned counsel for the complainant and learned D.P.G have opposed the grant of bail to the applicants/accused. Counsel for the complainant submits that the delay has been properly explained and the incident was witnessed by the complainant and witnesses namely Sarfraz and Zafar, who have specifically nominated the applicants in the F.I.R with their specific roles. The medical evidence also supports the case of the prosecution and the incident took place in broad daylight. He further submits that both parties are residing in the same vicinity, therefore, there is no question of misidentification of the accused persons. He further submits that from the place of incident, the Investigating Officer secured 14 empty shells of rifle and 04 cartridges of gun, which corroborate the case of the prosecution and one person namely Ali Nawaz has lost his life while another sustained serious firearm injuries. Lastly, he prayed that application be dismissed.

5. Heard and perused.

6. Admittedly, both parties have lodged First Information Reports (FIRs) against each other. The complainant, namely Abdul Rehman, registered FIR No.16/2025 under Sections 302, 337(ii), 147, 148, and 149, Pakistan Penal Code (P.P.C.), at Police Station Mirwah Gorchani. Conversely, complainant Rashid Ali (Present case) registered FIR

No.17/2025 under Sections 302, 324, 337-H(ii), 147, 148, and 149, P.P.C.

7. The case of the prosecution, as set forth, is that on the day of occurrence, approximately 8 to 9 persons, duly armed with firearms and ammunition, acting with a common intention and in furtherance of their common object, appeared at the scene of the incident. It is alleged that both parties, namely the complainant's side and the applicants' side, engaged in indiscriminate firing upon each other, as a consequence of which two individuals lost their lives. The specific role attributed to applicant Asif is that he allegedly fired from his rifle upon Sarfraz, causing an injury to the upper part of his leg. Applicant Irfan Ali is alleged to have fired upon Sarfraz, which struck him on his right knee. Applicant Qurban is alleged to have made a straight fire from his rifle directed at the complainant party, while applicant Abdul Rehman is alleged to have fired from his rifle upon Sarfraz, which struck his left knee.

8. From a plain reading of the FIR, it emerges that all the accused persons, sharing a common intention and common object, appeared at the place of incident and opened fire upon the complainant party. Consequently, one person, namely Ali Nawaz, lost his life, while another, Sarfraz, sustained grievous injuries. Since both parties are admittedly known to each other, the possibility of misidentification does not arise. Furthermore, the police have secured crime empties as well as blood-stained earth from the scene of occurrence. The ocular account is corroborated by the medical evidence, and the statements of prosecution witnesses, recorded under Section 161 Cr.P.C. by the Investigating Officer, support the version advanced by the complainant.

9. As regards the plea advanced by the learned counsel for the applicants, that since counter cases have been registered by both parties against each other, the applicants are thus entitled to the concession of pre-arrest bail, it is sufficient to observe that the mere filing of counter cases or cross cases, without any element of genuineness, cannot by itself constitute a valid ground for the grant of bail. It is a settled principle of law that no individual possesses the right to unlawfully deprive another of his life, as the right to life is

the most fundamental and sacred right guaranteed to every human being. The sanctity of human life cannot be subjected to compromise on account of personal vendettas, social pressures, or other extraneous considerations, for once an innocent life is extinguished, it cannot be restored. In the both cases, it is an admitted position that two persons lost their lives on account of a trivial dispute, which reflects the gravity of the allegations and militates against the grant of the extraordinary relief of pre-arrest bail.

10. At bail stage, only tentative assessment is to be made. Sufficient material is available on the record to connect the applicants/accused with the commission of alleged offence. The offence with which the applicants stand charged fall within the prohibitory clause of Section 497 Cr.P.C. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicants even otherwise they have shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakis [2019 S CMR 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

11. The learned counsel for the applicants has failed to make out the case for the confirmation of interim pre-arrest bail. Accordingly, instant bail applications are **dismissed**. The interim pre-arrest bail

already granted to the applicants vide orders dated **02.06.2025** and **04.06.2025** respectively are hereby **recalled**.

12. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE

****Faisal****