

***IN THE HIGH COURT OF SINDH BENCH AT SUKKUR***

***Criminal Bail Appln. No.201 of 2025***

***Applicants***

Ghazi and Vindur by caste Mari. : through Mr. Abdul Ghani Abro,  
Advocate.

The State : through Syed Sardar Ali Shah Rizvi,  
Addl.P.G. Sindh for State.

Date of hearing. : 24.03.2025  
Date of Order. : 24.03.2025

**ORDER**

***Ali Haider ‘Ada’, J.*** Through this bail application, the applicants/accused Ghazi and Vindur both sons of Muhammad Nawaz @ Nango Mari, seek their post-arrest bail in Crime No.142 of 2023, registered under section 302, 324, 353, 148, 149 PPC and 7 ATA at Police Station, Tando Masti Khan district Khairpur as such incident was reported on 28.10.2023 while the date of incident is also mentioned in the FIR as 28.10.2023.

2. Earlier the bail plea of the applicants was declined by the learned Additional Sessions Judge-I/MCTC, Khairpur vide order dated 25.02.2025 in Sessions Case No.818 of 2024.

3. The crux of prosecution case as unfolded in the FIR are that complainant ASI Noor Ahmed Kalhoru lodged FIR on 28.10.2023 at about 1350 hours at Police Station, Tando Masti Khan stating therein that there was dispute between one absconder Bego Mari and Ali Muhammad Mari over landed property for which law and order situation creates in the area and a police picket was arranged

and complainant was deployed as head of the said picket. On the day of incident said Ali Muhammad Mari alongwith PC Khadim Hussain Jamro on one motorcycle while he alongwith PC Imtiaz Ali Panhwar on another motorcycle went towards Court for hearing, when they reached near Tando Nazar Ali link road near Pir Qabil Faqeer saw from right side of ghat suddenly 12 persons emerged, complainant saw and identified them to be Bego, Shah Baig, Ashique, Farman, Sajawal, Vindur, Ghazi and Five unknown persons, yet identified if seen again, armed with deadly weapons and on coming they made straight firing upon Ali Muhammad Mari due to firing, PC Khadim Hussain, PC Imtiaz Ali and said Ali Muhammad Mari sustained injuries and they fell down while complainant saved himself by taking shelter. He suddenly contacted with in charge Economic Zone, SHO Tando Masti Khan and Incharge Special Team Mumtaz Dasti. The encounter continued for about 15/20 minutes thereafter SHO Police Station Tando Masti Khan Rafique Ahmed Soomro, SIP Rehmatullah Solangi, Incharge PP Economic Zone alongwith staff and Incharge Special Team HC Mumtaz Ali reached at the place of incident and on seeing them accused party by taking advantage of Sugarcane crop went away by making firing. Complainant party saw HC Khadim Hussain Jamro, PC Imtiaz Ali and Ali Muhammad Mari they received injuries. HC Khadim Hsusan received serious injuries from his back side which was through and through and while one injury was on his upper side of nose blood was oozing and was died. PC Imtiaz Ali sustained one fire on his right leg over hip and Ali Muhammad Mari received one fire on his right leg through and through and on other parts of his body. They took injured persons to hospital and on the way to Hospital said Ali Muhammad Mari also died. Thereafter postmortem of deceased PC Khadim Hussain and Ali Muhammad Mari was conducted and PC

Intiaz Ali was admitted in the hospital for treatment. Then complainant lodged FIR at Police Station.

4. Learned Counsel for applicants submits that due to enmity the applicants are involved otherwise they have no specific role, further submits that applicants are behind the bars last more than 16 months. As he prays for grant of post arrest bail to them. He placed reliance upon the reported case of *Muhammad Nasir v. The State* (2018 YLR Note 254).

5. Conversely, learned Additional Prosecutor General appearing for the State submits that there is no proof of enmity against police officers as one police officer was murdered in the line of duty and another person was also killed while one police officer sustained fire arm injuries hence, there is no ill motive to involve the applicants in the instant case as the Applicants are involved with direct and specific role, he further submits that during site visit police secured 08 Crime Empties of G-3 rifle, 09 Crime empties of KK, 05 Crime empties of 12 bore Cartridges and 04 Crime empties of pistol. He further submits that since the applicants were armed with repeaters, 12-bore cartridges also added to their involvement therefore, he prays for the dismissal of their bail. Lastly also submits that on behalf of the State the order of Learned Anti-Terrorism Court Khairpur, transferring the case from Anti-Terrorism Court to Ordinary Court is challenged and pending before Honorable Principal Seat of this Court.

6. I have heard the learned Counsel for the parties and have examined the material available on record.

7. Record reflects that the police party was in service in order to provide security for maintenance law and order situation in the course of service and duty, during encounter one police official was murdered and another was seriously

injured, while the private person namely, Ali Muhammad Mari was also murdered, with a firearm at the hands of a dacoit. Bare reading of prosecution case, the applicants were companions of the gang of dacoit and they made firing upon Police part. As a result, three people were injured, two of whom later died. Therefore, in view of above, at this stage, the applicants are not entitled to a concession of bail, as their case does not fall within the scope of further enquiry. In the case of *Faiz Muhammad v. The State* reported in 2025 YLR 279 wherein this Court held that “*incident took place on 28.05.2023 at 06:00 p.m, and the FIR was registered on the same day at 2330 hours; therefore, there appears no chance of deliberation and consultation. Further perusal of FIR reflects that applicant has been attributed role of directly firing upon the deceased and the prosecution witnesses support the case of complainant .Moreover, the version of complainant is corroborated by the recovery of empties from the place of incident and recovery of crime weapon viz. Pistol, used in the commission of alleged offence. Two empties recovered from the place of incident on sending for FSL matched with the pistol recovered from the applicant.*” In the instant case during site visit police also secured 08 Crime Empties of G-3 rifle, 09 Crime empties of KK, 05 Crime empties of 12 bore Cartridges and 04 Crime empties of pistol, Specific and direct role of applicants/accused is attributed of making straight firing upon police party and in lieu thereof two persons have lost their lives and one police official was injured at the hands of applicants and their companions.

8. For, what has been discussed above, I am of the view that the applicants/accused are nominated in the FIR with specific role. Besides, the FIR was lodged very promptly on same date within span of Five hours, therefore, false implication of the accused/applicants or deliberation and consultation does not arise. The offence with which accused persons stand charged is heinous and

involving the capital punishment. No ill-will or any *malafide* of complainant party has been shown against the applicants for implicating them falsely in this case. Prima facie, there is sufficient material available on record to connect the accused/applicants with commission of offence. It is well settled principle of law that bail cannot be claimed in non-bailable offence as of right. Accordingly, I do not find any merit in the bail application which is hereby dismissed.

**J U D G E**

*Ihsan/PA*