

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-244 of 2026

DATE **ORDER WITH SIGNATURE OF JUDGE(S)**

1. For orders on office objections.
2. For hearing of main case.

02.07.2026.

Mr. Sagar Ali Sathio, Advocate for applicant.
Syed Talib Shah, Advocate for complainant.
Mr. Shahid Ahmed Shaikh, Additional P.G.

ORDER

Miran Muhammad Shah, J.- Through instant bail application, applicant Mangal son of Ranjho Kolhi seeks post arrest bail in Crime No.64 of 2023, registered at Police Station B-Section, Tando Allahyar, under Sections 302, 201, 34 PPC.

2. The allegation leveled by the prosecution are that the complainant has stated that on 24.04.2023 his brother Niaz Muhammad was last seen at a hotel with Mangal, Shivram, Heero, and two unknown persons. On next day, Niaz Muhammad's dead body was recovered near RD-183 adjacent to Sanjar Chang. After noticing bloodstains at the deceased's house, the complainant suspected the above-named accused of murdering Niaz Muhammad and disposing of his body to conceal the offence. On his complaint, the FIR was registered and investigation was initiated.

3. Learned Counsel for the applicant/accused presses this bail application on the statutory ground. According to him the applicant was arrested on 26.04.2023 and since then he is behind the bars; whereas, the provisions of Section 497 Cr.P.C entitles him to the grant of bail as the trial has not been concluded as yet and the matter remains pending since long time and under such provisions of law he is entitled to bail.

4. Learned Counsel for the complainant as well as learned APG have vehemently opposed this bail application on the ground that since it is a murder case, as such, the case for bail cannot be taken lightly. Accordingly to the learned Counsel for the complainant one PW i.e. complainant has already been examined whose evidence remains un-shattered; however, he is not in a position to explain the delay of three years in the trial which primarily is the responsibility of the prosecution side to fulfill. Learned APG is also supporting the arguments advanced by the learned Counsel for the complainant while stating that it will be fatal for the trial as well as prosecution to release the present applicant on bail at this stage.

5. I have heard the learned Counsels for the parties and have gone through the record minutely. Admittedly, the applicant has remained behind the bars for the last three years, and the trial is yet to conclude. Thus far, only one prosecution witness namely the complainant has been produced and examined. However, at least six prosecution witnesses, including the Investigating Officer, the Medical Officer, and the mashir of the recovery of the dead body and other articles, are still to be examined. In these circumstances, the conclusion of the trial is not likely in the near future. Even otherwise, the prosecution case primarily rests upon the theory of last seen evidence. Admittedly, no eyewitness has seen the actual occurrence and the applicant/accused has been nominated in the F.I.R. merely on the basis of the allegation that he was last seen in the company of the deceased, such is a weakest type of evidence. No motive has been established. Furthermore, there is an unexplained delay of 23 hours in the lodgment of the F.I.R. It is also noteworthy that the evidence of the complainant was recorded after a lapse of more than two and a half years, thereafter no prosecution witness was produced before the trial Court for evidence till this date. Such inordinate delay is fatal to the prosecution, yet they failed to produce its witnesses without any plausible justification. The prosecution cannot be permitted to adopt delaying tactics at the cost of the applicant's continued incarceration, particularly when the evidence available on record appears to be of tentative nature. The learned Counsel for the applicant has also placed reliance upon the judgment of the Hon'ble Supreme Court of Pakistan in *NOOR AGHA v. The STATE and another* (2025 SCMR 1679), wherein the scope and applicability of the fourth proviso to Section 497 Cr.P.C. has been elaborately discussed in paragraph No.7. Prima facie, there is nothing on the record to suggest that the applicant/accused is a hardened, desperate, or dangerous criminal so as to disentitle him from the concession envisaged under the said proviso.

6. In view of the above circumstances and in the light of the case law relied upon by the applicant's Counsel, this bail application is allowed and consequently the present applicant/accused is admitted to post arrest bail on the ground of statutory delay, subject to furnishing a solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand) and P.R Bond in the like amount to the satisfaction of the learned trial Court.

7. 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 applicant on merits.

JUDGE