

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-678 of 2026

Applicant: Saifal through Mr. Ayaz Ali Gopang, Advocate.

Respondent: The State through Ms. Rameshan Oad, Deputy Prosecutor General, Sindh along with I.O. Nabi Bux Batt PS Sakrand, District Shaheed Benazirabad.

Complainant: Muhammad Aslam Parhyar through Mr. Mukesh Kumar Oad, Advocate.

Date of hearing: 12.10.2026.

Date of order: 12.10.2026.

ORDER

MUHAMMAD HUMAYON KHAN, J.- The applicant/accused, Saifal son of Mehboob Hussain alias Mohab Zardari, seeks post-arrest bail in Crime No. 92 of 2026, registered at Police Station Sakrand, District Shaheed Benazirabad, for offences punishable under Sections 302, 504, 147, 148 and 149, P.P.C. His earlier bail application was dismissed by the learned Additional Sessions Judge-VI, Sakrand, by order dated 25.05.2026.

2. The prosecution case, in brief, is that on 10.03.2026, at about 7:30 p.m., the complainant Muhammad Aslam Parhyar, his father Allah Warayo Parhyar and his cousin Shah Muhammad Parhyar were returning after recovering the sale proceeds of a buffalo. Near village Saifal Khan Zardari, they allegedly saw the deceased stopped on his motorcycle and involved in an altercation with the applicant and others over a motorcycle accident. The applicant is alleged to have struck the deceased with an iron rod on the head and forehead, while the co-accused allegedly caused further injuries with lathis and an iron rod. Three unidentified persons were also alleged to have participated in the assault. The injured was taken to Taluka Hospital, Sakrand, where he was declared dead. The FIR was registered on 11.03.2026 at 4:15 p.m.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated and that the deceased's death resulted from a road traffic accident involving Hussain Bux Zardari. He relied on the delay in lodging the FIR, the alleged absence of the complainant and his witness at the place of occurrence and the asserted

inconsistency between the ocular account and the medical material. He further referred to two investigation reports, including the report of the JIT, which recommended disposal of the case in “C” Class and placed the applicant in column No.2 of the report under Section 173, Cr.P.C. According to counsel, statements of independent witnesses, videos said to have been recorded at the scene and the treatment record relating to Hussain Bux support the defence version. He also relied on the grant of bail to co-accused Riaz Hussain and Talib Hussain. No incriminating article, he added, was recovered from the applicant. He therefore submitted that the case calls for further inquiry under Section 497(2), Cr.P.C.

4. The learned D.P.G. Sindh opposed the application. She contended that the applicant is specifically nominated in the FIR and is assigned the role of inflicting iron-rod blows on the head and forehead of the deceased, both vital parts of the body. She contended that his role is distinguishable from those attributed to the co-accused who have been granted bail. The police opinion and JIT report, she submitted, do not bind the Court and the competing versions require assessment at trial.

5. Learned counsel for the complainant adopted the prosecution case and contended that the applicant is specifically nominated in the FIR with a direct role in the homicidal assault. He contended that the allegation of iron-rod blows to the head and forehead of the deceased is supported, at this tentative stage, by the ocular account and the medical material. He further contended that the applicant cannot claim bail merely on the basis of the investigation reports recommending his placement in column No.2, as the Court is required to independently assess the material available on record. The defence plea of accidental death, he argued, raises a disputed question that can only be determined after evidence is recorded. He also contended that the applicant’s role is materially different from that of co-accused Riaz Hussain and Talib Hussain, who have been granted bail, and that the rule of consistency is therefore not attracted. In support of his submissions, he relied upon *SHOUKAT ILAHI v. JAVED IQBAL and others* (2010 SCMR 966), *MUDASSAR ALTAF and another v. The STATE* (2010 SCMR 1861) and *MUHAMMAD ALI v. The STATE* (2013 MLD 1085).

6. I have heard learned counsel for the parties and examined the available record. The offence under Section 302, P.P.C. falls within the

prohibitory clause of Section 497, Cr.P.C. Its gravity is a relevant consideration, but the application must be decided on a tentative assessment of the material against this applicant. The question is whether that material provides reasonable grounds for believing that he is connected with the offence or whether his case falls within the scope of further inquiry under Section 497(2), Cr.P.C.

7. The applicant is named in the FIR with a specific allegation that he inflicted iron-rod blows on the head and forehead of the deceased. The allegation is therefore not confined to his presence in an unlawful assembly or to a general assertion of participation. The ocular account, at this stage, receives tentative support from the medical material concerning the deceased's injuries. Whether the applicant caused a particular injury and whether the witnesses' account is reliable, are matters for the trial Court after evidence is recorded. No final finding on those matters is called for at this stage.

8. The delay in lodging the FIR and the defence assertion that the complainant and his witness were not present at the scene have been considered. The occurrence is stated to have taken place on the evening of 10.03.2026, whereas the FIR was registered the following day. The interval is a circumstance to be examined with the other evidence; on the material presently available, it does not by itself displace the specific allegation made against the applicant. The same applies to the defence claim that the occurrence was an accident. The videos, statements of independent witnesses and treatment record relied upon by the applicant may bear on that question, but their authenticity, context and evidentiary value cannot be conclusively determined in a bail application.

9. The recommendations in the investigation reports, including the JIT report and the applicant's placement in column No.2 of the report under Section 173, Cr.P.C., have also been taken into account. Such reports are relevant material and cannot be ignored; at the same time, the investigating agency's opinion is not binding on the Court. In *MUDASSAR ALTAH and another v. The STATE* (2010 SCMR 1861), the Supreme Court held that placement of an accused in column No.2 does not prevent the Court from independently assessing the material available. Here, the reports recommending "C" Class must be considered alongside the FIR, the statements attributed to the complainant and his witness and the medical material. The learned Magistrate's direction for further

investigation is also part of the procedural history, but does not, by itself, determine the applicant's entitlement to bail. On a tentative assessment of the material as a whole, the specific allegation against the applicant cannot presently be set aside solely on the basis of the police opinion.

10. The applicant also relies on the grant of bail to co-accused Riaz Hussain and Talib Hussain. The principle of consistency requires a comparison of the respective roles and circumstances; it does not operate mechanically. The applicant is assigned the specific role of striking the deceased on the head and forehead, whereas the roles attributed to the co-accused, as reflected in the material presently before the Court, are different. Their release on bail, therefore, does not by itself place the applicant on the same footing. The submissions and authorities cited by learned counsel for the complainant have also been considered. The tentative approach adopted here is consistent with the principles discussed in *SHOUKAT ILAHI v. JAVED IQBAL and others* (2010 SCMR 966) and *MUDASSAR ALTAF and another v. The STATE* (2010 SCMR 1861), while the weight of the defence version and the competing material remains for determination at trial.

11. The absence of recovery from the applicant has also been noted. In the presence of a direct ocular allegation, that circumstance alone is not sufficient to bring the case within the scope of further inquiry. Having considered the grounds urged by learned counsel, I am not persuaded, at this stage, the applicant has made out a case for the grant of post-arrest bail under Section 497(2), Cr.P.C.

12. For the foregoing reasons, the application is **dismissed**. The learned trial Court is directed to conclude the trial within three months from receipt of this order, subject to the cooperation of the parties. The trial Court shall proceed in accordance with law and shall not be influenced by the tentative observations made herein, which are confined to the decision of this bail application.

JUDGE

Approved for reporting.

Abdullah Channa/PS