

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

Criminal Bail Application No.S-57 of 2026

Applicant: Shahnawaz Son of Hadi Bux Khoso through Syed Shafique Ahmed Shah, Advocate.

Complainant: Sher Son of Shuja Muhammad through M/s. Aijaz Ahmed Shaikh and Kamran Baig, Advocate.

Respondent: The State through Mr. Siraj Ahmed Bijarani, A.P.G along-with Inspector Allan Khan.

Date of hearing: 02.03.2026

Date of order: 02.03.2026

ORDER

Riazat Ali Sahar, J.– Through the instant bail application filed under Section 497 of the Code of Criminal Procedure, the applicant Shahnawaz seeks post-arrest bail in Crime No.132 of 2025, registered at Police Station Matiari for offences punishable under Sections 302, 34 and 114 of the Pakistan Penal Code. The earlier bail application of the applicant was declined by the learned Additional Sessions Judge, Matiari, vide order dated 22.12.2025.

2. Briefly stated, the prosecution case as set out in the FIR is that on 28.09.2025, the applicant Shahnawaz along with co-accused Moula Bux alias Moulauddin, duly armed with firearms, and co-accused Arbab Khoso, reached in front of the house of Balwani. It is alleged that the present applicant and co-accused Moula Bux instigated the main accused Arbab Khoso, who at about 19:00 hours inflicted multiple straight hatchet blows upon Shuja Muhammad, father of the complainant, as a result whereof he sustained injuries and subsequently succumbed to the same during treatment at Civil Hospital Hyderabad. Hence, the FIR.

3. Learned counsel for the applicant contended that the applicant

has falsely been implicated in the present case due to previous enmity. According to him, no specific role of causing any injury to the deceased has been attributed to the applicant, and the only allegation against him is that of instigation, which, according to learned counsel, is vague and requires deeper appreciation of evidence during trial. Learned counsel further submitted that the complainant party had actually attacked the relatives of the applicant, during which, the deceased Shuja Muhammad allegedly received injuries at the hands of Javed and Sajjad, but the complainant, in order to save the real culprits, lodged the instant FIR against the applicant and others. It was also argued that another FIR bearing Crime No.133 of 2025 was lodged despite the alleged occurrence in both FIRs having taken place on the same date and at the same time, which shows that the complainant managed to lodge two separate FIRs regarding the same incident by manipulating the time of occurrence. Learned counsel further pointed out that a counter version of the same incident exists, as a relative of the applicant namely Naveed Ahmed lodged FIR No.138 of 2025 at Police Station Matiari against the complainant party, wherein members of the complainant party have been nominated as accused and have already been granted bail by the learned trial Court. He further argued that according to the prosecution story, Ibrahim son of Raza Muhammad allegedly witnessed the incident while coming from Bacha Band, Matiari, and informed his father Raza Muhammad. However, in the present FIR, the complainant has described the deceased Shuja Muhammad as his own father. Such contradictions, according to learned counsel, create serious doubt in the prosecution case. On these premises, he contended that the case of the applicant falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C.

4. Conversely, learned Assistant Prosecutor General, assisted by learned counsel for the complainant, opposed the bail application and submitted that the applicant has been specifically nominated in the FIR and has been assigned the role of instigation while being present

at the place of occurrence armed with a pistol, which attracts vicarious liability for the act committed by the principal accused. They further contended that the plea of enmity cuts both ways and by itself is not sufficient to extend the concession of bail. They further argued that in the counter version the presence of the applicant at the place of occurrence has been admitted; therefore, they prayed for dismissal of the bail application.

5. I have heard the learned counsel for the respective parties and have carefully examined the material available on record.

6. Admittedly, the name of the applicant appears in the FIR; however, no specific role of causing injury to the deceased has been attributed to him. The only allegation against the applicant is that he along with co-accused Moula Bux alias Moulauddin, while allegedly holding firearms, instigated the principal accused Arbab Khoso, who inflicted hatchet blows upon the deceased. Whether such allegation of instigation is sufficient to establish vicarious liability of the applicant for the act committed by the principal accused is a question which can only be determined by the trial Court after recording prosecution as well as defence evidence during trial. It is also a matter of record that a counter FIR (Crime No.138 of 2025) relating to the same incident has been lodged by the relative of the present applicant, namely Naveed Ahmed, against the complainant party and the accused nominated therein have already been granted bail by the learned trial Court. This circumstance also requires determination during trial as to which party was the aggressor and which was the victim. Furthermore, the investigation of the case has already been completed and the challan has been submitted before the trial Court, therefore the applicant is no more required for the purpose of investigation. It is well settled that grant of bail is not to be withheld as a measure of punishment. If ultimately the prosecution succeeds in proving the guilt of the applicant, the law provides adequate punishment. However, if the applicant is unnecessarily kept behind bars and is ultimately acquitted, no adequate compensation can be offered to him for such unwarranted

deprivation of liberty. In this regard reliance is placed upon the case of *Manzoor and others v. The State* (PLD 1972 SC 81). In the peculiar circumstances of the case, particularly when the allegation against the applicant is one of instigation only, coupled with the existence of a counter version, the matter prima facie appears to call for further inquiry within the meaning of Section 497(2) Cr.P.C.

7. For the foregoing reasons, the applicant has succeeded in making out a case for the concession of bail. Consequently, the instant Criminal Bail Application was allowed in terms of my short order dated 02.03.2026, whereby the applicant Shahnawaz was admitted to bail subject to furnishing solvent surety in the sum of Rs.200,000/- and P.R bond in the like amount to the satisfaction of the learned trial Court.

8. Before parting with this order, it is clarified that the observations made hereinabove are tentative in nature, meant only for the purpose of deciding the present bail application, and the learned trial Court shall decide the case strictly in accordance with law without being influenced by any observation made in this order.

JUDGE

Muhammad Danish