

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERBADD

Criminal Bail Application No. S-1339 of 2025
[Imam Bux Brohi and another v. The State]

Before:
JUSTICE RIAZAT ALI SAHAR

Applicants: Imam Bux and Abdul Ghafoor through M/s. Manzoor Ahmed Panhwar and Ali Ahmed Zaman Patoli, Advocates

Respondent: The State through Mr. Irfan Ali Talpur, D.P.G. Sindh.

Complainant: Jan Muhammad through Mr. Abdul Majeed Magsi, Advocate.

Date of Hearing: 11.03.2026

Date of Decision: 30.03.2026

ORDER

RIAZAT ALI SAHAR, J:- The applicants, through the instant Criminal Bail Application under Section 497 Cr.P.C., respectfully seek the concession of post-arrest bail in Crime No. 96 of 2025 registered at Police Station Bulri Shah Karim for the alleged offences under Sections 365, 302, 201 and 34 PPC.

2. The brief background of the matter is that an FIR bearing Crime No. 96 of 2025 was registered at Police Station Bulri Shah Karim under Sections 365, 302, 201 and 34 PPC on the complaint of the complainant alleging that his son, namely Ashiq Ali, was forcibly taken away by the present applicants while he and his son were returning from Bulri Shah Karim to their village on 28.04.2025. It was further alleged that after two days the dead body of the said Ashiq Ali was recovered from a pond near Naukar Farm, which was subsequently identified by the complainant. Upon such allegation, the present applicants were implicated in the instant case and arrested by the police. The applicants thereafter approached the learned Additional Sessions Judge,

Tando Muhammad Khan for grant of post-arrest bail; however, the said bail application was dismissed vide order dated 21.10.2025, hence, the present bail application has been filed before this Court.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated in the present case due to mala fide and ulterior motives. He argued that the FIR has been lodged with an unexplained delay of about twenty-four days, which creates serious doubt regarding the veracity of the prosecution story and suggests that the case has been registered after deliberation and consultation. He further submitted that there is no ocular account of the alleged occurrence and the entire case rests upon circumstantial evidence, which at this stage is insufficient to connect the applicants with the commission of the alleged offence. Learned counsel maintained that the complainant himself is not an eyewitness to the alleged abduction or murder, and no independent witness has been associated with the alleged recovery. He further contended that the prosecution has failed to establish any motive or previous enmity between the parties, while the call data record (CDR) allegedly shows that the applicants were present elsewhere performing their official duties at the relevant time. It was also argued that the investigation has already been completed and the challan has been submitted before the trial Court; therefore, no further recovery or custodial interrogation is required. Learned counsel lastly submitted that the case of the applicants falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C., and their continued detention would amount to pre-trial punishment, hence they are entitled to the concession of bail.

4. Conversely, the learned Deputy Prosecutor General along with the learned counsel for the complainant vehemently opposed the grant of bail to the applicants and contended that the applicants are nominated in the FIR with specific allegations of abducting the deceased, namely Ashiq Ali, which subsequently resulted in his murder. They argued that the offence alleged

against the applicants is of a heinous nature involving Sections 365 and 302 PPC, which fall within the prohibitory clause of Section 497 Cr.P.C., therefore the concession of bail cannot be extended lightly. It was further contended that sufficient incriminating material has been collected by the investigating agency during the course of investigation which prima facie connects the applicants with the commission of the alleged offence. Learned counsel further submitted that the dead body of the deceased was recovered soon after the incident and the circumstances of the case clearly establish the involvement of the applicants. They maintained that the matter requires thorough examination during trial and if the applicants are released on bail at this stage, there is every likelihood that they may influence the prosecution witnesses or hamper the course of justice. They lastly prayed that the instant bail application being devoid of merit may be dismissed.

5. Heard the learned counsel for the applicants, the learned Deputy Prosecutor General, as well as the learned counsel for the complainant, and perused the record with their able assistance.

6. After hearing the learned counsel for the parties and perusing the available material on record, it appears that the alleged occurrence is stated to have taken place on 28.04.2025, whereas the FIR has been registered after a delay of twenty-four days. No plausible or satisfactory explanation for such delay has been furnished by the complainant. It is a settled principle of criminal jurisprudence that an unexplained delay in lodging the FIR creates serious doubt about the genuineness of the prosecution story as it provides sufficient time for deliberation, consultation and possible false implication. At least at the stage of bail, such delay assumes significance and tilts the case towards the ambit of further inquiry within the meaning of Section 497 (2) Cr.P.C.

7. It further transpires from the record that there is no eyewitness account of the alleged occurrence. The complainant

himself is not an eyewitness to the alleged abduction or the subsequent murder of the deceased. The entire prosecution case is thus founded upon circumstantial evidence. It is well settled that cases resting upon circumstantial evidence require strict proof during trial, and unless the chain of circumstances is complete and unbroken, the guilt of the accused cannot be conclusively inferred. At the bail stage, when such chain of circumstances is yet to be established through evidence, the benefit of doubt ordinarily goes in favour of the accused persons.

8. Another significant aspect of the case is that the complainant recorded his further statement on 24.06.2025, wherein he nominated two additional persons namely Ubed-u-Rehman Lodhi and Bhaledino Shar as being involved in the alleged occurrence. However, during the course of investigation, the Investigating Officer found no sufficient evidence against the said persons and consequently discharged them under Section 169 Cr.P.C. Such development in the investigation *prima facie* indicates uncertainty in the prosecution version regarding the actual perpetrators of the offence and further strengthens the contention of the learned counsel for the applicants that the matter requires deeper appreciation of evidence at trial.

9. The record further shows that the present applicants were arrested on 27.05.2025 and have remained behind bars for about ten months. The investigation has already been completed and the challan has been submitted before the trial Court. Therefore, no further recovery or custodial interrogation of the applicants is required. It is a settled proposition of law that the detention of an accused person for an indefinite period before determination of guilt amounts to pre-trial punishment, which is not permissible under the settled principles of criminal justice. Besides, Daily Diary (Roznamcha) entry dated 29.04.2025 of Police Station Taluka Bulri Shah Karim, recorded prior to the registration of the FIR, does not disclose either the names of the present applicants or the prosecution story subsequently narrated

in the FIR. The said entry merely reflects that the deceased, Ashiq Hussain, had left his house on 28.04.2025 on a motorcycle to purchase household articles but did not return. Subsequently, after an unexplained delay of 24 days, i.e., on 22.05.2025, the present applicants were nominated in the case on the basis of alleged "last seen" evidence, claiming that the deceased was last seen in their company along with his motorcycle. Furthermore, nothing incriminating has been recovered from the possession of the applicants or at their instance. In these circumstances, the case, *prima facie*, appears to fall within the ambit of further inquiry.

10. It is also noteworthy that the DNA test conducted during investigation has returned negative results insofar as the present applicants are concerned. This circumstance further weakens the prosecution case at this preliminary stage and creates a reasonable doubt regarding the alleged involvement of the applicants in the commission of the offence. Such piece of evidence, though to be appreciated finally at trial, nonetheless lends support to the plea of the applicants that their case calls for further inquiry.

11. In view of the above circumstances, particularly the unexplained delay of twenty-four days in lodging the FIR, absence of ocular account, uncertainty created by the complainant's subsequent statement and discharge of co-accused under Section 169 Cr.P.C., the prolonged incarceration of the applicants, and the negative DNA report, this Court is of the tentative view that the case of the applicants falls within the purview of further inquiry as contemplated under Section 497 (2) Cr.P.C. The deeper appreciation of evidence shall, however, be undertaken by the learned trial Court at the appropriate stage. Consequently, instant Criminal Bail Application is allowed and the applicants Imam Bux Brohi son of Nabi Bux and Abdul Ghafoor son of Luqman Mallah are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/-

(Rupees Two Hundred Thousand) each along with P.R. bond in the like amount to the satisfaction of the learned trial Court.

12. It is clarified that the observations made herein are purely tentative in nature and shall not influence the trial Court while deciding the case on merits.