

IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No.2984 of 2025

Cr. Bail Application No.2985 of 2025

Cr. Bail Application No. 2719 of 2025

Applicants : i. Rafiq Ahmed Sheikh s/o Abdul Sattar Sheikh
ii. Abdullah Sheikh s/o Rafiq Ahmed Sheikh
Through Mr. M. Khan Sheikh,
Advocate

Complainant : Ahsan Waqar
Through M/s Khuwaja M. Azeem and
Matiullah Gondal Advocates

Respondent : The State
Through Ms. Robina Qadir DPG

Date of hearing : 09.04.2026
Date of order : 29.04.2026

ORDER

MIRAN MUHAMMAD SHAH, J:- This order disposes of three criminal bail applications filed by the same two applicants, namely Rafique Ahmed Shaikh and Abdullah Sheikh, seeking post-arrest bail. Cr.B.A. No. 2719/2025 pertains to the main case arising out of Crime No. 950/2023, registered under Sections 302, 427, and 34 PPC at PS Sachal, filed jointly by both applicants. Cr. B.A. Nos. 2984 and 2985 of 2025 are offshoot cases arising out of Crime No. 953/2023, under Section 23(i) of the Sindh Arms Act, 2013, filed by applicant Rafique Ahmed Shaikh, and Crime No. 984/2023, under Section 24 of the Sindh Arms Act, 2013, filed by applicant Abdullah Sheikh, both registered at the same police station, i.e., PS Sachal. Therefore, for the sake of convenience, consistency, and to avoid conflicting findings, all these bail applications are being decided through this single consolidated order. It is also pertinent to mention that earlier bail applications filed by both applicants for the same relief were dismissed

through separate orders passed by the learned Additional Sessions Judge-VII, Malir, Karachi, vide orders dated 27.09.2025.

2. Briefly stated, the facts of the case for the purpose of deciding these bail applications, are that on 25.08.2023, the complainant, Ahsan Waqar, lodged the FIR stating that on the night intervening 25.08.2023, he along with his younger brother Hassan Raees aged about 17 years, was present at home. At about 4.30 a.m, they went to sleep; however, in the morning the complainant was informed by the police that the dead body of his brother Hassan was lying at Abbasi Hospital. He found that his Toyota Hilux Rovo car was not available and on enquiry chowkidar informed him that at about 5:20 a.m., Hassan had taken away the said vehicle. The complainant reached the hospital where he found the dead body of his brother, as well as the dead body of a girl, who was identified as Laraib, stated to be a class fellow of his deceased brother, she had been seen with him. The police carried out the necessary formalities. The complainant expressed suspicion that Rafique Ahmed, along with his sons Danyal Shaikh and Rudab Shaikh, had committed the murder by use of a firearm. It further transpired during the course of investigation that the incident had occurred on the same day at about 6:30 a.m. near the residence of said Laraib, situated at Abdullah Palari Goth, near Bakhar Goth. Subsequently, the complainant also noticed that their vehicle had been damaged. On the same day, i.e., 25.08.2023, the applicant Rafique Ahmed was arrested, and an unlicensed pistol was recovered from his possession, for which a separate case was registered. During investigation, co-accused Abdullah Shaikh allegedly produced the crime weapon, and a separate FIR was also lodged against him.

3. Learned counsel for the applicants/accused contended that the applicants are innocent and have been falsely implicated in the present case

due to mala fide on the part of the complainant. He also contended that despite suspicion, no direct or solid evidence has been collected to connect the applicants with the commission of the alleged offence. He further submitted that the applicants have already remained behind bars for more than two years and their case squarely falls within the ambit of the third proviso to Section 497, Cr.P.C statutory delay/hardship and the trial has not concluded within a reasonable time and the delay is not attributable to the applicants. He further argued that the prosecution evidence recorded so far is weak and contradictory in nature and no conclusive or direct evidence has been brought on record and, therefore, the applicants are entitled to concession of bail on the ground of hardship.

4. Conversely, learned counsel for the complainant strongly opposed the grant of bail and submitted that the applicants are involved in a heinous offence of double murder, and nature of the offence is extremely grave and falls within the prohibitory clause of Section 497, Cr.P.C. It is submitted that key prosecution witnesses, including the Investigating Officer, medical witnesses, and other material witnesses, are yet to be examined, and at this stage, releasing the applicants on bail would seriously prejudice the prosecution case.

5. Learned DPG adopted the arguments advanced by the counsel for the complainant and opposed the grant of bail. He submitted that the case involves a double murder of a serious and gruesome nature, and the material available on record prima facie connects the applicants with the commission of the offence. He further argued that although some delay has occurred in conclusion of trial, the same cannot be solely attributed to the prosecution, and considering the nature of allegations, the gravity of the offence, and the stage of the trial, the applicants are not entitled to the concession of bail on the ground of hardship.

6 I have heard the arguments of learned counsel for the applicants as well as the complainant, and so also the learned DPG, in these connected bail applications; one being the main case under Sections 302, 34 PPC, and the other being offshoot cases under Sections 23(i)(a) and 24 of the Sindh Arms Act. Learned counsel for the applicants has all along pleaded mala fide on the part of the police, who are alleged to have investigated the case in close proximity to the complainant party. Despite suspecting the present applicants/accused, no solid ground, according to him, has been established to implicate them in the case. However, on merits, the bail application of the present applicants has already been dismissed by this Court. Now the applicants/accused have approached this Court on the ground of hardship after their application on such ground was rejected by the trial Court. According to learned counsel, the applicants have remained behind bars for more than two years and have invoked the third proviso Para B of Section 497, Cr.P.C. It is yet to be determined whether a case of hardship is made out or not. There is evidence of a private witness, who appears not to be an interested witness, and the recovery of the crime weapon has also been effected from the present applicants/accused. For these reasons, they have also been nominated in the connected cases under Sections 23 and 24 of the Sindh Arms Act, which are under consideration here. After perusal of the case diaries, which is the foremost requirement in a hardship case, it transpires that on 13.12.2023 the case of the absconding accused was bifurcated from that of the present applicants/accused. Soon thereafter, charge was framed and the case was fixed for evidence. However, the evidence commenced much later; the complainant was examined on 14.05.2025, and his father was examined on 16.09.2025. Thereafter, it is not clear whether any further evidence has been recorded. Two material witnesses have so far been examined, who, according to learned counsel for the applicants, have made contradictory statements. However, several vital

witnesses are yet to be examined, including the Investigating Officer, medical witnesses, circumstantial evidence, and other private but star witnesses, as well as the mashir of recovery in the connected case. This is a case of a serious nature, wherein the father and brothers have been accused of murdering their own daughter/sister as well as her friend. The motive and circumstantial evidence appear to favor the prosecution. The witnesses who are to establish the motive and complete the chain of circumstantial evidence are yet to be examined. The complainant and his father (already examined PWs) initially did not furnish strong evidence at the time of lodging of the FIR and had nominated the present applicants/accused on suspicion. However, subsequently, the investigation appears to have collected material bringing the case closer to a possible conviction, and not one falling within the ambit of further inquiry or reasonable doubt at this stage. It is indeed a case of double murder, which has to be looked into deep and based on complete evidentiary value. In fact it can even be considered a case of honor killing, however, Section 311 PPC has not been applied; therefore, this Court would refrain from making any conclusive observation in that regard. Nevertheless, it remains a gruesome act of violence and murder. Undoubtedly, some hardship has occurred in this case but it can equally be attributed to the present applicants/accused who waited for the result of their bail application and did not proceed to examine the witnesses available, perhaps due to fear of evidence coming against them, which might result in their conviction. Although the delay cannot be wholly attributed to the applicants, it is settled that the burden of expeditious trial also lies upon the accused and their counsel, and any delay in cross-examination of witnesses would always go against the accused. In my opinion, considering the nature of allegations and the charge, this case reflects a serious and heinous offence. However, since the present bail applications have been pressed solely on the ground of statutory delay,

without touching the merits, I am of the view that the applicants/accused have failed to make out a case for grant of bail at this stage. Consequently, the bail applications of both the applicants in the main case as well as in the connected cases stand dismissed. However, the learned trial Court is sternly directed to conclude the trial expeditiously, particularly by examining all the star witnesses, including the Investigating Officer and medical witnesses, within a period of 30 days, and to submit a progress report before this Court through MIT-II. The applicants/accused shall be at liberty to file a fresh applications if the trial Court fails to examine the said witnesses within the stipulated period. Above all three bail applications stand disposed of accordingly.

7. Needless to mention here that the observations made herein above are tentative in nature and would not influence the trial court while deciding the case of the applicant on merits.

Office is directed to place assigned copy of this order in the captioned connected matter.

JUDGE

I have heard the arguments of learned counsel for the applicant as well as the complainants so also the learned DPG, in these connected bail applications. One being the main case of Section 302, 437, 34 PPC. The other two one being its offshoot cases under section 23 (i) (A) of Sindh Arms Act and 24 of Sindh Arms Act. The counsel for the applicants all along had pleaded malafied on the part of the police, who has stated to have investigated the case in close proximity of the complainant party. Despite suspecting both the present applicants accused. no solid ground was established to implicate them in the case. However, on the merit of the case, the bail application of the present applicants has already been dismissed by this court. Now the applicants/ accused have approached this court on the ground of hardship after getting their application on the hardship rejected by the trial court. According to counsel for the applicants/ accused they have been behind bars since last more than 2 years. They have invoked the 3rd provisional para B of Section 497 Cr.P.C. It is yet to be determined whether the applicants/ accused case of hardship is made out or not. There is evidence of private witness who seems not an interested witness and so also the recovery of crime weapon has been made from the present applicants/ accused. For the said reasons they have been nominated in the connected case under section 23 & 24 of Sindh Arms Act which is also under consideration here. After perusing the case diaries which is the foremost requirement in a hardship case, it has transpired that it was on 13/12/2023 that the case of the absconded accused was from present applicant accused. Soon after that the charge was framed and the case was sent for evidence. However the evidence of the first witness up until 14/5/2025 when the complainant was examined and on a later date his father was examined on 16/9/2025. After which no case has been submitted. It is not clear whether any further evidence has been recorded by the trial court, however 2 substantial have been examined, which according

to the counsel for the applicants have given contradictory statements. However some very vital witnesses are yet to be examined, including the investigation officer, the medical evidence, the apsel evidence and some private but star witnesses remain to be examined and so also the mushir of recovery in the connected case. This is a case of serious nature where the father and the brother have been accused of murdering their own daughter/sister and so also her friend. The motive of the crime and circumstantial evidence is clearly favoring the prosecution. The witnesses whose statement provides the circumstantial evidence and the motive have not been examined as yet. The complainant as well as his father (already examined PWs) have even initially not made a strong evidence at the time of lodgment of FIR etc and had named the present applicants/ accused only on suspicion. However, later on the evidence collected by the investigation team have undoubtedly gathered certain evidence which bring the case in close proximity of conviction and the applicants/ accused case and not bringing the case of the applicant accused in the ambit of beyond reasonable doubt. It is indeed a case of double murder which has to be looked into deep and based on complete evidentiary value. In fact it can even be considered a case of honor killing however section 311 PPC has not been applied, therefore, It should also refrain from doing so yet it can be considered a gruesome act of violence and murder. Undoubtedly the hardship has occurred in this case but it can equally be attributed to the present applicants accused for the result of their bail applications and did not proceed to examine the witnesses available. Perhaps due to fear of evidence coming against them, which might result in their conviction. Although the delay cannot be attributed wholly to the applicants/ accused the burden of a proceeding of a case always lies on the accused and its counsel. Any delay in cross examining the witnesses would always go against the accuse. In my opinion, as alleged and as per charged, this case

shows the case has been attempted by a hardened criminal as who would want kill his own kith and kin. Yet since this bail application had been filed only on the point of statutory delay in my opinion without the merits of this case on the merits of this bail application, the present applicant accused has not made out a case for bail at this stage hence this bail application of both the applicants in both cases stands dismissed. However the learned trial court sternly directed to conclude the trial especially examine all the star witnesses including the medical evidence and the investigation officer of the case within a period of 30 days and file a progress report before this court through the MIT-II. The applicants/ accused shall be at liberty to file a fresh application if the trial court is unable to examine the above mentioned witnesses within the stipulated time period. Both the bail applications are disposed of.

5. Needless to mention here that the observations made herein above are tentative in nature and would not influence the trial court while deciding the case of the applicant on merits.

