

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1017 of 2026

Applicant : Muhammad Arshad
son of Muhammad Rafique
Through Mr. Shoukat Ali Phull,
advocate

Complainant : Nazeer Hussain
son of Allah Waraya
Through M/s. Khalid Hussain Shah
and Muhammad Afzal Roshan,
advocates.

The State : The State:
Through Ms. Sharafuddin Kanhar,
A. P. G. Sindh

Date of hearing : 21.05.2026.

Date of Order : 21.05.2026.

ORDER

Jan Ali Junejo, J:-- Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant Muhammad Arshad son of Muhammad Rafique, who seeks his release on bail in connection with FIR No.1138 of 2025 registered at Police Station Site Superhighway, Karachi for the offences punishable under Sections 302/201/34 PPC. The applicant has approached this Court being aggrieved by the order dated 16.02.2026 passed by the learned Additional Sessions Judge-I/(MCTC), Malir at Karachi whereby his bail application was declined.

2. Briefly stated, the prosecution case as reflected in the FIR is that the complainant resides with his family at the address mentioned in column No.2 and owns an auto parts shop at Water Pump, Karachi. He stated that his elder son namely Tahzeer Hussain aged about 22 years worked with him at the shop. On 04.10.2025, at about 11:15 p.m., after closing the shop, both returned home,

whereupon Tahzeer entered the house while the complainant attended to other work. At about 12:00 midnight, Tahzeer was called outside by his cousins namely Bisharat son of Muneer and Waseem Abbas son of Ashfaq Durani, and left with them for an outing. On 05.10.2025, when the complainant attempted to contact his son at about 2:45 p.m., his mobile phone was switched off. Upon inquiry, Waseem informed him that they had visited various places during the night and had dropped Tahzeer near Al-Asif Square Pedestrian Bridge on Super Highway, Karachi, at about 4:30 a.m., after which they returned home and had no knowledge of his whereabouts. The complainant initially approached Police Station Joharabad, but was referred to Police Station Sachal. Subsequently, upon the advice of a relative, his son visited the Edhi Mortuary at Sohrab Goth on 06.10.2025 and identified the dead body of Tahzeer Hussain, which had been brought there by Police Station Site Super Highway. The complainant alleged that Bisharat, Waseem, and their unidentified associates, including a person known as "Aisha," had murdered his son for unknown reasons at an unknown place and later disposed of his dead body on the Super Highway, hence this FIR.

3. Learned counsel for the applicant contends that the applicant is a law-abiding and respectable citizen who has been falsely implicated in the present case due to a fabricated version advanced by the complainant. He further contends that according to the challan submitted by the Investigating Officer, the applicant has been implicated only for the offences under Sections 201 and 34, P.P.C., and no direct role has been assigned to him in the commission of the murder. He further argues that the principal accused namely Waseem Abbas, who is closely related to both the deceased and co-accused Bisharat Hussain, has admitted his sole responsibility for the occurrence in a video circulated among friends and family members, wherein he categorically stated that the incident had taken place at his hands. Learned counsel maintains that applicant Arshad was merely a driver hired by the deceased

and the co-accused for an outing and had no prior knowledge of the occurrence. According to the applicant, while driving the vehicle, a gunshot was suddenly fired by co-accused Waseem Abbas, which struck the deceased on the head, resulting in his death, whereafter the applicant was threatened at gunpoint and compelled to assist under fear of death and harm to his family. He further submits that the applicant subsequently informed the complainant regarding the death of his son and the involvement of Waseem Abbas, who thereafter absconded, yet the complainant falsely implicated the applicant in the present case. Learned counsel further contends that the prosecution has failed to produce any independent witness from the locality to corroborate its allegations, rendering the prosecution case highly doubtful. He lastly argues that bail is a rule and jail an exception, and where reasonable doubt exists regarding the involvement of an accused, the benefit thereof extends even at the bail stage; therefore, the applicant, who has remained behind bars without any direct evidence connecting him with the commission of the murder, is entitled to the concession of bail.

4. Conversely, learned APG assisted by learned counsel for the complainant opposed the grant of bail and argued that the applicant was present at the scene of murder and disposal of the dead body and knowingly facilitated the concealment of the offence. The statement of co-accused Waseem Abbas directly place the applicant at the spot, participating in the transportation of the deceased's body. The applicant is not merely an accessory after the fact, but actively helped in destruction of evidence and abetted the concealment of the crime. He has failed to establish any mala fide on the part of the complainant or investigating agency. Offence under Section 302 PPC carries capital punishment and falls within the prohibitory clause of Section 497 Cr.P.C; hence, he is not entitled to the concession of bail.

5. This Court has given anxious consideration to the submissions advanced on behalf of the parties and has examined the record with

utmost care. On a tentative assessment of the material available on record, it appears that the applicant is not alleged to have committed the actual act of murder. However, her implication arises from the statement of co-accused who has consistently stated that the applicant accompanied with him during the disposal of the dead body.

6. Moreover, the applicant appears to have had knowledge of the murder and, instead of reporting the crime, allegedly aided in removing evidence by participating in the concealment of the body. These allegations, if established, may attract not only Section 201 PPC but potentially also Section 302 PPC by way of common intention or abetment, subject to evidence at trial. While the confession attributed to the applicant is not admissible in itself, the presence of corroborative evidence including circumstantial material strengthens the prosecution case at this stage.

7. At the bail stage, the Court is not required to conduct a deeper appreciation of evidence or determine the guilt or innocence of the accused conclusively. The only consideration is whether there exist reasonable grounds to believe that the accused is connected with the commission of the offence. The record reflects that the applicant was admittedly present in the vehicle at the relevant time and, according to the prosecution, remained associated with the co-accused not only during the occurrence but also thereafter when the dead body of the deceased was allegedly disposed of and evidence of the crime was attempted to be obliterated. The plea of the applicant that he acted under duress and threat from the principal accused is a defence which requires thorough examination during trial and cannot be accepted at its face value at this tentative stage.

8. It is also significant that, despite having knowledge of the commission of a heinous offence, the applicant did not immediately report the matter to the law-enforcement authorities. Rather, the

prosecution material tentatively suggests that he remained in the company of the co-accused and facilitated acts intended to screen the offenders from legal punishment. Whether such conduct was voluntary or under coercion is a question of fact which can only be determined after recording evidence during trial. At this stage, the available material prima facie indicates the applicant's nexus with the commission of the offence and subsequent concealment thereof.

9. The contention of the learned counsel for the applicant that the Investigating Officer has sent him up only under Sections 201 and 34, P.P.C. does not materially advance his case. It is by now well settled that the opinion of the Investigating Officer is not binding upon the Court and the Court is competent to assess the material independently for determining the nature and extent of involvement of an accused. The tentative material collected during investigation, including the statements of witnesses and surrounding circumstances, cannot be ignored merely because the Investigating Officer has formed a particular opinion regarding the offences attracted against the applicant.

10. The offence involved in the present case is one under Section 302, P.P.C., punishable with death or imprisonment for life, thus falling within the prohibitory clause of Section 497, Cr.P.C. The material presently available on record does not bring the case of the applicant within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. Rather, there are sufficient grounds, at least tentatively, connecting him with the commission of the offence and its aftermath. The plea regarding absence of independent witnesses is also of no avail at this stage, as the prosecution case is primarily founded upon circumstantial evidence and the conduct of the accused persons, the evidentiary value whereof shall be determined by the trial Court after recording evidence.

11. For the reasons recorded above, this Criminal Bail Application filed on behalf of the Applicant is dismissed. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

These are the reasons of short order dated 21.05.2026.

JUDGE