

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 936 of 2026

Applicant : Ahmed Safder son of Safder Barlas
Through Mr. Aamir Mansoob Qureshi,
advocate

Complainant : Khan Dil son of Muhammad Azeem
Through Mr. Shaban Khan Janjua,
advocate

Respondent : The State
Through Mr. Sharafuddin Kanhar, APG.

Date of hearing : 06.08.2026.

Date of order : 06.08.2026.

ORDER

Jan Ali Junejo, J.— Applicant Ahmed Safder son of Safder Barlas seeks pre-arrest bail in a case bearing Crime No. 114/2012, for offence under section 302/324 PPC registered at PS Darakhshan, Karachi. Prior to this, the applicant had sought the same relief before the learned Additional Sessions Judge-I/Model Criminal Trial Court, Karachi South which was declined vide order dated 19.03.2026. He was admitted to interim pre-arrest bail by this court vide order dated 25.03.2026, now the matter is fixed for confirmation of interim bail or otherwise.

2. Brief facts of the case, as stated in the FIR, are that on 23.03.2012, Khan Dil son of Muhammad Azeem Khan stated that he, along with his friend Bilal Khan son of Meher Khan, had gone to Seaview on a motorcycle and, while returning at about 08:00 p.m., reached Cafe Clifton, DHA, Phase-V, Karachi. Bilal Khan parked the motorcycle on an empty plot adjacent to the cafe, where a Prado and two white cars were already parked. The occupants of those vehicles objected to their parking there and,

Hospital for treatment and, upon regaining the ability to make a statement, reported that unknown persons, due to personal enmity, had murdered Bilal Khan and injured him, and requested that legal action be taken against the culprits. Hence, this FIR.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated with mala fide and ulterior motives, as the FIR was initially registered against unknown persons and contained neither his name nor any specific role; that he remained unaware of the proceedings and, upon learning of his implication through a police list of absconders, voluntarily approached the police and this Court, obtained protective relief, surrendered before the learned Court below, joined investigation and fully cooperated with the Investigating Officer; that the Test Identification Parade conducted on 26.01.2026, approximately thirteen years after the occurrence, is of doubtful evidentiary value, as neither the FIR nor the statements under sections 161/162 Cr.P.C. contained any prior description of the assailants, the alleged firing was from behind, and the complainant and witnesses had already seen the applicant during the bail proceedings, thereby causing prior exposure; that the applicant's objections to the delayed TIP were dismissed, whereas the learned Court below erred in treating such disputed identification as conclusive at the bail stage; that the alleged linkage of vehicle No. ATH-450, in the absence of recovery of any weapon or independent corroboration, does not establish the applicant's participation, particularly when no specific act of firing was attributed to him in the FIR; that the investigation has been completed and report under section 173 Cr.P.C. submitted as "A" Class, with no substantial incriminating material or demonstrated need for custodial interrogation or recovery; that the alleged abscondence, without proof of due legal process, cannot by itself defeat the applicant's claim for bail, particularly when, upon acquiring knowledge, he surrendered and remained available to the investigating agency and the Court; that the applicant has no criminal antecedents, undertakes to attend the proceedings regularly and not to influence or tamper with the prosecution evidence; and that the cumulative circumstances of delayed implication, doubtful identification, absence of specific attribution, lack of corroborative material and full cooperation with investigation render the case one of further inquiry under section 497(2) Cr.P.C., while his apprehension of arrest is bona fide and warrants protection from unnecessary arrest and harassment

interim pre-arrest bail already granted to the applicant. In support of his submissions, learned counsel has relied upon 2025 SCMR 318, 2022 YLR Note 179, 2023 SCMR 364, 1994 SCMR 1234, 1975 P.Cr.L.J. 1271, 2023 YLR Note 80, 2020 SCMR 1049, 2018 YLR Note 226, 2017 SCMR 135, 2019 YLR Note 24, 2023 P.Cr.L.J. 823, 2022 YLR Note 104, 2020 YLR Note 75, 1986 P.Cr.L.J. 645, 2011 P.Cr.L.J. 1892, 2025 MLD 1196, PLD 2012 Sindh 212, 2020 P.Cr.L.J. Note 81, 2022 YLR 136, 2010 MLD 1047, 2011 SCMR 769, 2002 P.Cr.L.J. 1120, 2002 P.Cr.L.J. 518, 2005 YLR 869 and 2007 P.Cr.L.J. 1902.

4. Learned counsel for the complainant opposes the bail application and submits that the complainant Khan Dil an injured eye-witness, has specifically implicated the applicant in the occurrence dated 23.03.2012, in which the deceased Bilal Khan was murdered and the complainant sustained firearm injuries; that the applicant was traced through vehicle No. ATH-450, which was found in his possession; that he remained absconding for more than thirteen years and eight months and, even after obtaining interim protective bail, failed to appear before the Trial Court, resulting in issuance of non-bailable warrants; that he also evaded the Test Identification Parade and was identified by the complainant only after judicial compulsion, with the identification being supported by the recovery of five empty cartridges from the place of occurrence; that, being an injured eye-witness, the complainant

involving the death of Bilal Khan and firearm injuries to the complainant; however, the gravity of the offence alone cannot justify denial of pre-arrest bail. At this stage, the Court is required to make a tentative assessment of the material and determine whether the applicant's arrest is justified by reasonable grounds connecting him with the offence or whether his involvement requires further inquiry.

7. The FIR was admittedly lodged against unknown persons and neither names the applicant nor attributes any specific role to him. No description or distinguishing feature of the alleged assailants appears in the FIR or the earliest statements. The applicant was subsequently implicated after an extraordinary lapse of time. Such delayed implication, particularly in the absence of any identification in the initial version, calls for cautious scrutiny at the bail stage.

8. The Test Identification Parade conducted on 26.01.2026, approximately thirteen years after the occurrence, also requires cautious consideration. The prosecution alleges that the firing was made from behind, while the applicant contends that no prior description of the assailants was furnished and that he had already been seen by the complainant/witnesses during the pendency of the bail proceedings. Such alleged prior exposure materially affects the evidentiary worth of the subsequent identification. Whether the TIP was conducted under circumstances ensuring its reliability is ultimately a matter for determination at trial and cannot, at this stage, be treated as conclusive proof of the applicant's involvement.

9. The prosecution has also relied upon vehicle No. ATH-450. Even if the vehicle is connected with the applicant, such circumstance, by itself, does not establish his presence at the place of occurrence, participation in the firing or common intention. No weapon has been recovered from the applicant, nor has any independent forensic or other material been pointed out connecting him with the firing. Similarly, recovery of five empty cartridges from the place of occurrence establishes the occurrence of firing but, without a demonstrated nexus with the applicant, does not by itself connect him with the crime.

10. The applicant's alleged abscondence for a prolonged period and alleged failure to appear before the

itself is not substantive evidence of guilt, and its effect has to be considered along with the material connecting the accused with the offence. The applicant asserts that he remained unaware of the proceedings, particularly as the instant FIR had subsequently been recommended under '**A**' class, and therefore he had no occasion to acquire knowledge of the proceedings or the consequential orders. Upon subsequently acquiring knowledge, he approached the police and invoked the jurisdiction of the Court. More importantly, he has since surrendered, joined the investigation and remained available to the Investigating Officer and the Court. Thus, while his past conduct is relevant, it cannot, by itself, outweigh the circumstances creating doubt regarding his substantive involvement in the alleged offence.

11. It is also relevant that the applicant has joined the investigation, recorded his statements and cooperated with the Investigating Officer, while the investigation has been completed and report under section 173 Cr.P.C. has been submitted. The prosecution has not demonstrated any specific recovery, confrontation or other investigative purpose for which his custodial arrest is presently indispensable. His availability can adequately be secured through appropriate conditions of bail.

12. I am conscious that pre-arrest bail is an extraordinary relief; however, its extraordinary character does not require the Court to order arrest where the material gives rise to reasonable doubt regarding the accused's precise involvement and his custodial interrogation is not shown to be necessary. In the present case, the applicant has surrendered before the Court, joined investigation and is available to face the proceedings. The circumstances, therefore, bring the case within the ambit of further inquiry contemplated under section 497(2), Cr.P.C.

13. Upon tentative assessment of the material, I find that the prosecution has not, at this stage, furnished unimpeachable material establishing reasonable grounds for believing that the applicant participated in the alleged firing. The delayed implication, absence of his name or description in the FIR and earliest statements, doubtful and delayed identification, alleged prior exposure of the witnesses, absence of any specific role of firing, lack of recovery of weapon and absence of independent corroboration constitute sufficient circumstances for further

the same terms and conditions. However, applicant/accused is directed to attend the trial.

14. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

J U D G E