

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3367 of 2025

Applicant : Muhammad Hussain son of Shakeel Ahmed through M/s. Muhammad Nishat Warsi and Hafiz Danish Abdul Razzak, Advocates

Complainant : Amin Hussain son of Fazal Hussain through Mr. Muhammad Nazir Tanoli, Advocate

The State : Through Mr. Sharaf-u-Din Kanhar, Assistant Prosecutor General, Sindh along with SIP-Syed Nadeem Ali, SIU Maripur, Karachi

Date of hearing : 03.09.2026

Date of decision : 03.09.2026

ORDER

Jan Ali Junejo, J.- Through the instant Criminal Bail Application, the Applicant seeks the concession of post-arrest bail in Crime No.242 of 2025, registered at Police Station Maripur, Karachi, for offences punishable under Sections 302, 397 and 34, PPC. Earlier, the Applicant's post-arrest bail application was declined by the learned IV-Additional Sessions Judge, Karachi West *vide* Order dated 18.10.2025.

2. Briefly, the prosecution case, as set out in the FIR, is that the Complainant is the brother of deceased Jameel Hussain son of Fazal Hussain, who was the owner of DD Exchange situated at Tariq Road and was engaged in the business of money Exchange. It is alleged that on 09.08.2025 at about 8:00 p.m., the deceased reached near his residence in his car bearing registration No.BXR-430. After parking the vehicle near Jumerat Bazaar Ground, Madni Colony, and while collecting certain articles and a substantial amount of money from the car, two unknown young persons allegedly approached him. The deceased tried to run towards his house; however, the persons riding a CG-125 motorcycle allegedly chased him, and the pillion rider fired a shot with the intention to kill him. The firearm shot struck the deceased on his head, as a result whereof he fell to the ground. It is further alleged that a bag containing approximately Rs.17,00,000/- was taken away by the assailants, who thereafter attempted to escape from the scene. According to the FIR, certain persons from the locality, including Shehbaz Ahmed, followed the assailants, whereupon the accused persons abandoned a red-coloured

motorcycle bearing a police monogram and fled from the spot. It was alleged that one of the assailants was wearing attire resembling a police uniform. The injured was shifted to the Trauma Centre, Civil Hospital, where he succumbed to his injuries during treatment. The police recovered one empty bullet from the place of occurrence and thereafter took necessary steps in accordance with law.

3. Learned Counsel for the Applicant contended that the Applicant has neither been nominated in the FIR nor attributed any specific role in the commission of the alleged offence. It was argued that no firearm injury has been attributed to him, nor has any weapon been recovered from his possession. It was further submitted that the Applicant's presence at the place of occurrence is not established by any material collected during investigation. Learned Counsel contended that the Applicant was employed as a Security Guard at DD Exchange and, at the relevant time, was performing his duties there. It was further argued that co-accused-Adil was arrested during investigation and allegedly made a confession, but there is no independent material directly connecting the present Applicant with the alleged murder and robbery. It was also submitted that the Applicant was arrested approximately one week after the occurrence and that the prosecution has failed to collect any reliable evidence demonstrating his participation in the alleged crime. On these grounds, learned Counsel maintained that the case of the Applicant squarely falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.

4. Conversely, learned Counsel for the Complainant as well as the learned Assistant Prosecutor General, Sindh opposed the bail application. It was contended that Shehbaz Ahmed, who was allegedly present at the spot, had seen the assailants while they were fleeing after abandoning the motorcycle. It was further submitted that the motorcycle belongs to one namely Nofil, who disclosed that co-accused-Adil had taken the motorcycle on the day of occurrence and, after the incident, contacted him and informed him that a road accident had taken place involving the motorcycle. According to the prosecution, the present Applicant was employed as a Security Guard at the concerned exchange and, by virtue of his position, was aware of the deceased's movement and the availability of a substantial amount of cash, which allegedly facilitated the planning of the robbery.

5. Learned Counsel further relied upon the statement of Muhammad Ayaz, Branch Manager of DD Money Exchange, recorded under Section

161, Cr.P.C., wherein, it was allegedly stated that the Applicant was present at the exchange and was using his mobile phone on the day of occurrence. It was further argued that the Applicant was arrested under Section 54, Cr.P.C., and that his mobile phone was found to have been used in connection with the alleged offence. Reliance was also placed upon the call data record (CDR), allegedly showing contact between the applicant and co-accused-Adil. According to the prosecution, the Applicant was present at the exchange when the deceased left with the money and subsequently received a call from co-accused-Adil, who was allegedly present at the place of occurrence. On these grounds, it was argued that the Applicant's case does not fall within the ambit of further inquiry.

6. I have heard the learned Counsel for the Parties and the learned Assistant Prosecutor General, Sindh and have carefully examined the material available on the police record with their able assistance. At the bail stage, the Court is required to make a tentative assessment of the material available on record without conducting a deeper appreciation of evidence, which is the domain of the trial Court.

7. In the present case, it is an admitted position that the applicant was not nominated in the FIR. The occurrence, according to the prosecution itself, was committed by two unknown persons, and no specific role was assigned to the present applicant in the FIR. During investigation, no firearm or other incriminating article has been recovered from his possession, nor is there any material showing that he was physically present at the place of occurrence at the relevant time.

8. The prosecution has primarily relied upon the alleged contact between the applicant and co-accused-Adil through mobile phone/CDR and the circumstance that the applicant was employed as a security guard at the exchange. However, at this tentative stage, mere telephonic contact between two accused persons, without any further independent incriminating material establishing the nature and purpose of such communication, cannot by itself be treated as conclusive evidence of participation in the alleged murder and robbery. More particularly, the evidentiary value and authenticity of the alleged CDR and its connection with the commission of the offence would require proper proof and appreciation during trial. No forensic or other corroborative material has been brought on record at this stage which may sufficiently establish that the alleged communication was directly connected with the planning or commission of the offence.

9. Likewise, the fact that the applicant was employed as a security guard at the money exchange, by itself, does not establish his participation in the alleged crime. The prosecution allegation that, owing to his employment, he might have been aware of the deceased carrying cash may constitute a circumstance requiring examination at trial; however, in the absence of independent corroboration, it does not, at this stage, furnish sufficient grounds to hold that the applicant participated in the murder or robbery.

10. It is also noteworthy that, according to the material presently available, the applicant was not apprehended from the place of occurrence and no recovery connecting him with the commission of the offence has been effected from his possession. The alleged identification of the assailants by a prosecution witness also requires its own evidentiary assessment and, prima facie, does not directly connect the present applicant with the occurrence.

11. At the stage of bail, the Court is not required to determine the guilt or innocence of the accused. The question is whether the material available on record, if tentatively assessed, provides reasonable grounds for believing that the applicant is connected with the commission of the alleged offence, or whether his case requires further inquiry within the meaning of Section 497(2), Cr.P.C. Having regard to the circumstances discussed above, I am of the tentative view that the prosecution material presently available against the Applicant does not establish his direct participation in the alleged occurrence and that the circumstances relied upon by the prosecution require further inquiry and proof at trial.

12. Consequently, the case of the applicant falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. The Applicant is, therefore, entitled to the concession of post-arrest bail.

13. Accordingly, the instant Criminal Bail Application is **allowed**. The **Applicant-Muhammad Hussain son of Shakeel Ahmed** shall be released on post-arrest bail subject to furnishing solvent surety in the sum of **Rs.2,00,000/- (Rupees Two Hundred Thousand only)** and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

14. Needless to observe, the observations made hereinabove are tentative in nature and shall not prejudice either party at the trial, where the evidence shall be recorded and appreciated strictly in accordance with law. Bail application stands disposed of accordingly.

JUDGE