

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2701 of 2025

Applicant : Muhammad Hanif son of Asmat Khan through Mr. Nazirullah Mehsood, Advocate

Complainant : Muhammad Akmal Khan son of Muhammad Ajmal Khan through Mr. Ameer-uddin, Advocate along with M/s. Sana Kamal and Yasmin Bano, Advocates

The State : Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 17.12.2025

Date of decision : 17.12.2025

O R D E R

Jan Ali Junejo, J.- The present bail application under Section 497 of the Code of Criminal Procedure, 1898, has been filed by the applicant, Muhammad Hanif, who is in judicial custody in connection with FIR No.448 of 2025 registered under Sections 320/322 PPC at Police Station Gulshan-e-Iqbal, Karachi. The applicant's earlier bail application was dismissed by the learned III-Additional Sessions Judge, Karachi East, on 25.09.2025. He now approaches this Court for grant of post-arrest bail.

2. The prosecution case, as per the FIR, is that on 16.07.2025 at about 2130 hours, the deceased Ahmed Ali Muhammad (aged about 20 years) was riding his motorcycle on Main University Road, Gulshan-e-Iqbal, Karachi, when a Volvo Samsung excavator (Registration No. EW-130), allegedly driven by the applicant in a rash and negligent manner, struck him from behind, resulting in his instantaneous death. The excavator fled the scene. The FIR was lodged the following day by the deceased's father. During investigation, the driving license (No. ZT-9668) produced by the applicant was forwarded for verification. A report dated 25.08.2025 from the office of the Superintendent of Police, Ziarat, certified the license as fake. Consequently, Section 322 PPC was added, and upon submission of the final challan, Sections 468/471 PPC were also incorporated.

3. Learned counsel for the Applicant submits that the Applicant is innocent and has been falsely implicated; he argues the FIR was lodged with an unexplained delay of a day, eroding its credibility; he contends no

ocular account or independent eyewitness has been cited to connect the Applicant with the alleged occurrence; he argues the case, at its highest, rests on presumptions and disputed documents, rendering it one of further inquiry under the proviso to Section 497(2), Cr.P.C.; he contends the alleged HTV driving licence No. ZT-9668 is valid per online verification and the contrary report dated 25.08.2025 is malafide, hence the attraction of Section 322 PPC is seriously doubtful; he argues the added offences under Sections 468/471 PPC are documentary in nature and do not require custodial interrogation; he contends vicarious liability and identity of the driver are not conclusively established in absence of direct evidence; he argues that as co-accused Rabail Khan has been granted bail, the rule of consistency squarely applies; he contends the Applicant is not required for further investigation, is a permanent resident, undertakes to face trial, and that continued incarceration serves no useful purpose as challan has been submitted; he argues that, in these circumstances, discretion be exercised in favour of liberty and post-arrest bail be granted subject to any terms deemed appropriate.

4. Conversely, the learned A.P.G. for the State as well as Counsel for the Complainant oppose the application, submitting that the FIR narrates a fatal road incident caused by rash and negligent driving of a heavy excavator which fled the scene; they contends the delay in FIR is reasonably explained by the trauma and funeral arrangements of the bereaved family and does not vitiate the prosecution; they contends the investigative record, including the complainant's prompt attribution, site inspection, mechanical/forensic material, *prima facie* connects the Applicant; they contends the Superintendent of Police, Ziarat's verification dated 25.08.2025 declares the produced licence as fake, attracting Section 322 PPC and justifying the addition of Sections 468/471 PPC, indicating conscious use of forged documents; they contends online claims of licence validity are self-serving and cannot override an official verification at this stage; further contends the gravity of the offence, public safety concerns in operating an HTV without a valid licence, and the likelihood of tampering with witnesses or influencing verification processes militate against bail; they contends the rule of consistency is inapplicable as the co-accused is on a different footing while principal liability lies with the driver; further contends that given the seriousness of the allegations and a sufficient tentative nexus, the prayer for post-arrest bail be dismissed.

5. I have heard the learned counsel for the applicant, Additional Prosecutor General, Sindh as well as Complainant's Counsel and have perused the record with due care, including the impugned order, the FIR,

the verification report, and the other material available on record. At the bail stage, the Court undertakes only a tentative assessment of the material without delving into a deeper appreciation of evidence. The pivotal issue in the present bail application pertains to the veracity of the driving licence produced by the applicant. In this regard, the investigating agency obtained an official verification report dated 25.08.2025 from the competent transport authority, namely the office of the Superintendent of Police, Ziarat, which categorically states that the driving licence bearing No. ZT-9668, claimed by the applicant, is fake and bogus. This finding is a material fact which fundamentally alters the nature of the allegations against the applicant. At the initial stage, the case was registered under Section 320 PPC (causing death by rash or negligent act). However, upon discovery that the applicant was driving a heavy excavator without a genuine license, the investigating agency rightly incorporated Section 322 PPC. As per Schedule-II of the Criminal Procedure Code, 1898, an offence under Section 322 PPC is non-bailable. In non-bailable offences, bail is not a matter of right but a concession granted at the discretion of the court, to be exercised judiciously based on the facts and circumstances of each case. The applicant was not merely driving a private car; he was operating a heavy excavator, a piece of machinery that demands extreme care and a valid, competent license. Driving such a vehicle recklessly, rashly, and negligently on a busy public road, and that too without a legitimate license, demonstrates a gross and wanton disregard for human life and public safety. This act resulted in the crushing death of a young man of 20 years. The use of a forged licence aggravates culpability, elevating the matter beyond mere negligence to conduct evincing reckless indifference to human life and its consequences. In somewhat analogous circumstances, where the accused's licence was only a learner's permit for motorcycle and car and had moreover expired in 2019, this Court declined bail in **Imtiaz Ali v. The State (2023 YLR Note 69)**. Likewise, in **Atta Muhammad v. The State (2005 P.Cr.L.J. 1648)**, this Court observed that: "*No doubt the sentence provided under section 322, P.P.C. is Diyat but the offence is non-bailable, therefore, the applicant cannot claim bail in such offence as a matter of right. Reference is invited to Muhammad Siddique v. Imtiaz Begum 2002 SCMR 442. Nevertheless the punishment provided under section 320, P.P.C. is ten years. The case of the prosecution is supported by the eye-witness and there are reasonable grounds to believe that the applicant is involved in the case*".

6. The plea of parity with co-accused Rabail Khan (the owner of the excavator) is misconceived. The role of an owner and that of the actual driver are distinct, especially where the driver's personal act of operating the vehicle with a fake license is the direct cause of the fatality. The owner was granted bail on a different factual and legal footing. Parity cannot be invoked where material distinguishing factors exist. The delay of about 16 hours in the context of a fatal night-time accident, where the family was occupied with the aftermath and transporting the body to the hospital, is not so inordinate as to vitiate the prosecution case at the bail stage. Although the FIR is based on information received, the investigation has, in the meantime, collected incriminating material, including the report declaring the driving licence to be fake. The probative value of such evidence is to be determined at trial. At this stage, the applicant's reliance on an online verification printout cannot supersede or override an official verification report obtained through proper channels by the investigating agency. The authenticity of the licence is a disputed question of fact, best adjudicated during trial; however, for the limited purpose of bail, the official verification report carries considerable weight. The alleged use of a forged document, namely a fake driving licence, thus provides a plausible basis for the invocation of the relevant penal provisions, the applicability whereof shall ultimately be decided at trial. Cases of rash driving, particularly by drivers of heavy vehicles without valid licenses, resulting in loss of innocent lives, are alarmingly prevalent. Courts must consider the broader public interest in deterring such conduct. Granting bail in such serious matters, especially where a fake license is involved, may undermine public confidence in the justice system.

7. In view of the foregoing, I am of the considered opinion that: a *prima facie* case stands established against the applicant for a serious, non-bailable offence; the use of a forged licence is a grave aggravating factor; in the particular facts and circumstances, the discretion to grant bail does not merit exercise in the applicant's favour; and no sufficient grounds for the grant of bail have been made out.

8. Consequently, the present bail application filed on behalf of the applicant, being bereft of merits, is hereby dismissed. The trial court is directed to proceed with the trial expeditiously, in accordance with law. 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.

JUDGE

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