

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Constitutional Petition No. S-218 of 2026  
(*Muhammad Ali versus Province of Sindh & others*)

Date	Order with signature of Judge
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Date of hearing and order: **16.3.2026**

Mr. Muhammad Jibran Nasir advocate for the petitioner along with petitioner Muhammad Ali.

Mr. Ali Safdar Depar, Assistant AG

Mr. Sheeraz Nazeer, DIGP / Special Branch, Sindh Karachi

Mr. Raza Mian, DSP (Legal-II) CPO

Mr. Safdar Iqbal Mashwani, DSP Operations CTD, on behalf of SSP CTD Operations, Karachi

PI Faisal Shaikh, CTD (Inv.) Karachi

PI Zubair Ahmed I/C Legal Branch, CTD (Investigation), Karachi

SI Fahim Chitti, Focal Person of DIG CTD Sindh, Karachi

**ORDER**

**Adnan-ul-Karim Memon, J.** The case of the petitioner is that his son Hamdan, along with Jalil and Niaz, was in police custody in FIR Nos. 05/2026, 03/2026, 04/2026, and 10/2026, when they were purportedly killed in an ambush on 17.02.2026 within the jurisdiction of P.S. Shah Latif Town, Karachi. It is stated by the petitioner that Hamdan had gone missing on 29.12.2025 and, after the police failed to act on his complaint, he filed a written application and a habeas corpus petition, through which he later learned that his son had been shown arrested in FIR No.05/2026 and was in police remand till 19.02.2026 under the order of the learned Anti-Terrorism Court dated 06.02.2026. It is averred that they were taken by police to Shah Latif Town for alleged pointation of a hideout where, according to the police officials, an encounter with the accomplices of the accused occurred, and they died in such incident; however, they were in handcuffs and did not attempt to escape, rendering the official narrative doubtful. It is further alleged that the petitioner was neither informed of the death of the deceased in such an encounter with certain elements nor provided the postmortem and medico-legal reports, and faced difficulty in obtaining custody of the body of the deceased, besides being subjected to harassment and threats at the hands of police officials. The petitioner asserts that despite approaching the Judicial Magistrate under Section 176 Cr.P.C., as well as the FIA and the National Commission for Human Rights under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, no effective action has been taken. He, therefore, seeks directions for an impartial inquiry, production of medico-legal and postmortem reports, protection for his family, and other appropriate measures to ensure transparency and accountability. He prayed for bringing the actual culprits to book.

2. Learned counsel for the Petitioner submitted that this petition arises from the custodial death of the petitioner's son, Hamdan, who was in police custody and killed in a purported police encounter on 17.2.2026 at P.S. Shah Latif Town, Karachi. He submitted that the deceased had gone missing on 29.12.2025 and was later shown arrested in FIR No.05/2026 during habeas corpus proceedings, remaining in police remand until 19.2.2026 per the Anti-Terrorism Court's order dated 06.2.2026. He argued that the respondents admitted the deceased were handcuffed and made no attempt to escape, casting doubt on the official account. He added that the petitioner was not informed of the death, denied postmortem reports, and initially refused custody of the body, violating Rule 25.37 of the Police Rules, 1934. He submitted that the medico-legal reports indicate injuries inconsistent with the encounter narrative. He emphasized that the death constitutes a custodial death under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, requiring inquiry within seven days, which has not been initiated. The petitioner's counsel also alleged intimidation and violation of Articles 4, 9, 10, 14, and 25 of the Constitution. Learned counsel also submitted that Act 2022 protects a person during custody from all acts of torture perpetrated by public officials; that the offence under this section is cognizable, non-compoundable, and non-bailable as defined in the Code of Criminal Procedure; that the offence of custodial death is liable to the same punishment prescribed under Section 302 of the Pakistan Penal Code. He prayed to dismiss the petition. He prayed for direction to refer the matter to FIA for inquiry/investigation, under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, and action against the private respondents/police officials under the law.

3. DIG Police Special Branch, present in Court, submitted that pursuant to this Court's order dated 02.03.2026, a Committee has been constituted under his supervision and meetings were held on 06.03.2026 at the CTD office and on 07.03.2026 at the SIU CIA office, attended by the petitioner and his counsel. He stated that the inquiry is in progress and will be completed within one month; if involvement of the private respondents/police officials is found, the matter will be referred to FIA, or a report under Section 173 Cr.P.C. will be submitted before the competent Court having jurisdiction, therefore, he seeks disposal of the petition in these terms, which assertion was/is opposed by the petitioner's counsel, who requested that the case remain pending until submission of the final report before this Court.

4. After hearing the learned counsel for the parties present in Court and examining the material placed on record, it appears that the deceased Hamdan was in police custody at the relevant time when the alleged encounter with certain people took place. It is also not disputed that the deceased were in handcuffs and in police custody pursuant to the remand order passed by the learned Anti-

Terrorism Court. Such circumstances prima facie raise serious questions regarding the manner in which the incident occurred and require a transparent and independent inquiry in accordance with the law.

5. Before proceeding further, it is appropriate to briefly examine the provisions of the Torture and Custodial Death (Prevention and Punishment) Act, 2022. The Act protects persons in custody from torture committed by public officials. Under Section 5, exclusive jurisdiction to investigate offences under the Act is vested in the Federal Investigation Agency (FIA), and such investigations are to be conducted under the supervision of the National Commission for Human Rights. The law further provides that if a Magistrate, at any stage, including physical remand, has reasonable grounds to believe that torture has been inflicted, or if the detainee complains of torture, the Magistrate must order a medical examination. Where the medical report indicates torture, the Magistrate is required to inform the FIA and direct it to investigate the matter. Section 5(3) further stipulates that investigations shall be carried out in accordance with the procedure and powers provided under the Federal Investigation Agency Act, 1974, and the Federal Investigation Agency (Inquiries & Investigation) Rules, 2002, thereby incorporating the established framework governing enquiries and investigations. Section 8 prescribes punishment for torture in accordance with the relevant provisions of Chapter XVI of the Pakistan Penal Code, declaring the offence to be cognizable, non-compoundable, and non-bailable. Section 9 deals with custodial death and provides that any person committing or abetting such death shall be liable to punishment under Section 302 of the Pakistan Penal Code. The statutory scheme thus makes it clear that cases of custodial torture or death fall within the exclusive jurisdiction of the FIA, and FIRs registered by local police in such matters are not competent. Although the 2022 Act confers special jurisdiction, Section 5(3) incorporates the procedural framework of the FIA Act and the 2002 Rules. Consequently, the FIA may initiate a preliminary enquiry where necessary; however, such an enquiry is not a mandatory precondition for the registration of an FIR where the available material already discloses a cognizable offence.

6. In the instant matter, the deceased Hamdan was in police custody and Court remand in FIR Nos.05/2026, 03/2026, 04/2026, and 10/2026, when he was purportedly killed on 17.02.2026. It is urged that the deceased was in handcuffs and did not attempt to escape. Besides, it is urged that the medical evidence, i.e., postmortem and medico-legal reports, was suppressed. The petitioner asserts that despite approaching the Judicial Magistrate under Section 176 Cr.P.C., as well as the FIA and the National Commission for Human Rights under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, no effective action has been taken.

7. Regarding custodial deaths, I am guided by the Supreme Court's decision in PLD 2011 SC 799 (*Suo Motu Case No.10 of 2011, Brutal Killing of a Young Man by Rangers*). The Supreme Court took suo motu notice of a viral video showing Sindh Rangers officials killing an unarmed man, Sarfraz Ahmed, and concealing the crime through misleading FIRs. The Supreme Court held this as barbarism and a violation of Article 9 of the Constitution. Senior officials were transferred, and an impartial investigation under the Anti-Terrorism Act, 1997, was ordered, with a trial to be completed within 30 days. The Supreme Court emphasized that no one is above the law, accountability is essential, and law enforcement must protect life.

8. This Court, being the guardian of citizens' rights, will not tolerate custodial deaths or any inaction by police officials. SSPs, DSPs, SHOs, and other officials of the concerned area shall be held personally responsible for the misconduct of their subordinates if such incident happens. The Sindh Police, through the Inspector General of Police Sindh, and the Additional IGP Karachi, shall ensure that all police officials act strictly in accordance with law, and they shall wear the police uniform while on police duty, and they shall not be exempted and proper vigilance shall be made.

9. I am of the view that a departmental inquiry shall be conducted against the delinquent officials involved in such an incident under the supervision of Mr. Azad Khan, Additional IGP Karachi, with a DIG of Special Branch Sindh Police nominated to complete the inquiry within one month. If sufficient material is found, the matter shall be referred to the Federal Investigation Agency. However, during the inquiry, the petitioner and the concerned officials shall be afforded an opportunity of hearing. Meanwhile, the delinquent officials shall not be assigned operational duties, and their movements shall remain under strict vigilance. Additional, IGP Karachi shall personally supervise the working of SIU, CTD, and other sensitive investigation police Units to avoid custodial deaths as they become susceptible and are indulged in such state of affairs, as it has been urged. He shall ensure no such incident occurs in the future. The petitioner shall also be provided copies of the final report, post-mortem and medico-legal reports, and other relevant documents.

10. With these observations and directions, the instant petition, along with pending application(s), stands disposed of. Copy of this order to be communicated to all concerned, to be served through electronic and WhatsApp applications for compliance within time without fail.

JUDGE

