

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3276 of 2025

Applicant : Hamza son of Farooq through
Mr. Maroof Hussain Hashmi,
Advocate

Complainant : Ghulam Abbas Korejo through
M/s. Qadir Bux Rajpar and Abrar
Hussain, Advocates

The State : Through Mr. Sharaf-u-Din Kanhar,
Assistant Prosecutor General, Sindh

Date of hearing : 25.03.2026

Date of decision : 15.04.2026

ORDER

Jan Ali Junejo, J.- The instant post-arrest bail application under Section 497 Cr.P.C arises out of FIR No. 488/2025, registered under Sections 302/324/34 P.P.C. at Police Station Gizri, Karachi South, whereby the applicant seeks release on bail after his application was declined by the learned Additional Sessions Judge-VI, Karachi South, vide order dated 07.11.2025.

2. As per contents of the FIR, on 05.09.2025 at about 03:30 a.m., the complainant along with his cousin Khalid Aziz was proceeding towards a medical store when eight armed persons, riding on four motorcycles, intercepted them near Alfalah Masjid, P&T Colony. One of the accused pointed a pistol at them and asked them to recite Kalma, whereafter accused Bilal made 2 straight fires, one bullet hit my cousin Khalid on chest, then Fahad Raisani made one fire which hit Khalid on Calf of his left leg, and Khalid sustained severe injuries and felled down, where after by firing in the Air they fled away due to which one passerby namely Kafeel who was passing with his family, sustained injuries on his Right side Hip, by the Fire of Accused Suleman, while due to firing of, unknown accused, the accomplice of accused received Fire Arm bullet on his left shoulder of accused Imran, and accused Imran and Suleman fell down from the M/Cycle, on hearing the sound of Firing, Mobile Commander HC Zeeshan with officials, reached at the spot, all the injured were shifted to Jinnah Hospital Karachi, for treatment, and during treatment, my cousin Khalid Aziz son of

Abdul Aziz expired, seek legal action against above accused. During investigation, the present Applicant was arrested subsequently and allegedly identified in an identification parade.

3. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated in the present case with mala fide intention. He argued that the name of the Applicant does not appear in the FIR despite the fact that he was known to the Complainant, being brother of co-accused Bilal. It was further argued that no specific role or overt act has been attributed to the Applicant in the FIR. Learned Counsel emphasized that the case of the prosecution rests solely upon identification parade conducted after delay of about fourteen days, which loses its evidentiary value particularly when the applicant was allegedly arrested on the pointation of the Complainant. He further submitted that no independent corroborative evidence is available and the case of the applicant falls within the ambit of further inquiry under Section 497(2) Cr.P.C. Lastly, he prayed for grant of bail.

4. Per contra, the learned Counsel for the Complainant contended that the Applicant is involved in a heinous offence of murder committed in a brutal manner. It was argued that although the Applicant was not nominated in the FIR, he has subsequently been specifically identified during a properly conducted identification parade, which sufficiently connects him with the commission of the offence. Learned Counsel further submitted that the Applicant was an active participant in the unlawful assembly, duly armed with deadly weapons, and shared the common intention of the co-accused. It was emphasized that the material available on record, including the statements of witnesses and circumstances of the case, establishes a strong prima facie case against the Applicant, and the delay in holding the identification parade has been reasonably explained. It was further contended that the nature and gravity of the offence, coupled with the manner of its commission, disentitles the Applicant from the concession of bail and the case does not fall within the ambit of further inquiry under Section 497(2), Cr.P.C. Accordingly, it was prayed that the bail application be dismissed.

5. Conversely, learned A.P.G., vehemently opposed the grant of bail and argued that the Applicant is involved in a heinous offence of murder committed in a brutal manner. It was contended that the Applicant has been duly identified during identification parade and was part of the unlawful assembly armed with deadly weapons. It was further argued that sufficient material is available on record connecting the Applicant with the

commission of offence and no case of further inquiry is made out. He prayed for dismissal of the bail application.

6. I have considered the arguments advanced by the learned Counsel for the Parties and have carefully examined the available record, including the impugned Order passed by the learned trial Court, through a tentative assessment as is permissible at the bail stage. Admittedly, the name of the present Applicant does not appear in the FIR, wherein specific roles of firing have been attributed to the nominated co-accused. The involvement of the present Applicant surfaced subsequently during investigation on the basis of an identification parade. The evidentiary worth of such identification, at this stage, is to be assessed tentatively, particularly in view of the fact that the identification parade was conducted on 20.09.2025 after a delay of about thirteen days from the date of arrest, i.e., 07.09.2025. It is also an admitted position that the Applicant was allegedly arrested on the pointation of the Complainant, as reflected in the charge-sheet. In these circumstances, where the Complainant had already seen the Applicant at the time of his arrest prior to the holding of the identification parade, the evidentiary value of such identification, to the extent of the present Applicant, is substantially impaired. These aspects, prima facie, warrant deeper appreciation of evidence at the trial. Reliance is placed on the case of **Usman Ahmed and another v. The State through Advocate General, Islamabad (2025 SCMR 1442)**, wherein the Honourable Supreme Court of Pakistan held that: *“The law in this regard is very clear. Through a plethora of judgments this Court has held that in cases where the accused may have been seen by the identifying witness prior to the test identification parade, the identification proceedings carry no evidentiary value”*.

7. Furthermore, no specific overt act or role of causing injury has been attributed to the Applicant in the FIR. The allegation against the Applicant appears to be of his presence along with co-accused persons. The question as to whether mere presence constitutes common intention under Section 34 P.P.C is a matter which requires deeper probe and appreciation of evidence at trial. The record further reflects that the case primarily hinges upon ocular account and identification, which, in the peculiar facts and circumstances, calls for further inquiry within the meaning of Section 497(2) Cr.P.C. The possibility of false implication, particularly in absence of direct role and non-mention in FIR, cannot be ruled out at this stage. Reliance in this regard is placed on the case of **Bashir Ahmed and others v. The State and another (2022 SCMR 1187)**, wherein the Honourable Supreme Court of Pakistan was pleased to

hold that: *“Mere presence of an accused with an accused who commits the crime would not constitute his common intention unless there is an evidence referring to the criminal act of that accused committed in furtherance of common intention with the other accused”*.

8. The learned trial Court, while declining bail, has relied upon identification parade and overall prosecution case; however, the aspects relating to delay in identification, non-nomination in FIR, and absence of specific role attributed to the Applicant appear to have not been given due weight in the context of bail. Thus, I am of the view that the case of the Applicant calls for further inquiry.

9. In view of the above discussion, the instant bail application is allowed. Applicant/accused namely *Hamza* son of *Farooq* is admitted to bail subject to furnishing solvent surety in the sum of **Rs.500,000/- (Rupees Five Hundred Thousand Only)** and P.R bond in the like amount to the satisfaction of the learned trial Court. Observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE