

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Bail Application No. S-304 of 2026

Applicant : Gul Muhammad @ Ahsaan through Syed
Tarique Ahmed Shah, Advocate.

Respondent : The State through Mr. Neel Parkash,
Deputy Prosecutor General Sindh.

Complainant : Amanullah through Mr. Pervaiz Akhter
Talpur & Mr. Taimoor Ali Qureshi,
Advocate.

Date of Hearing : 01.09.2026

Date of Order : 01.09.2026

ORDER

Muhammad Humayon Khan, J.: The Applicant, Gul Muhammad, has been nominated in Crime No.109 of 2024 by the Digri Police Station under Sections 302, 324, 337A(i), 337F(i), 504 and 34 of the Pakistan Penal Code, 1860 (hereinafter the “PPC”). His bail application before the learned Court below was dismissed and so he has filed for bail before this Court.

2. The prosecution case, briefly stated, is that on 30.10.2024 at about 12:00 noon, following a dispute concerning the accused party's donkey straying into the complainant's land, Inamullah, son of the complainant, went towards an under-construction otaq of the accused. On hearing cries, the complainant and his sons, Sumair and Abdul Qadeer, rushed there. They allegedly saw Hafeez-ur-Rehman, Sultan and the present Applicant armed with pistols, while Abdul Rehman carried a hatchet. Hafeez-ur-Rehman and Sultan allegedly fired upon Inamullah; when Sumair and Abdul Qadeer attempted to intervene, the Applicant allegedly fired upon Sumair and Abdul Rehman allegedly struck Abdul Qadeer on the head with the hatchet. Inamullah later succumbed, while Sumair and Abdul Qadeer remained injured. After postmortem and necessary formalities, the deceased Inamullah was given a funeral and thereafter the complainant proceeded to lodge the FIR at the first opportunity, nominating the accused. The individual role assigned to each of the accused (in the FIR) is summarised as follows for convenience:

Name of accused	Weapon allegedly carried	Role attributed according to the contents of the FIR
1. Hafeez-ur-Rehman	Pistol	Allegedly fired at deceased Inamullah with the intention to kill
2. Sultan	Pistol	Allegedly fired pistol shots at deceased Inamullah with the intention to kill
3. Gul Muhammad (present Applicant)	Pistol	Allegedly fired pistol shot(s) and injured Sumair when he attempted to rescue Inamullah, with the intention to kill him
4. Abdul Rehman	Hatchet	Allegedly caused a hatchet blow on the head of injured Abdul Qadeer when he attempted to rescue Inamullah.

3. I have heard learned Mr. Tarique Ahmed Shah, Advocate for the Applicant, learned Mr. Neel Parkash, Deputy Prosecutor General for the State, and learned Mr. Pervaiz Akhter Talpur for the Complainant, and have gone through the record of the case with their assistance.

4. Mr. Tarique Ahmed Shah argued that the FIR in the case was delayed by twenty-three hours and contended that the case is false and the Applicant is innocent. He argued that one of the co-accused, Abdul Rehman s/o Hafeez-ur-Rehman, had sought bail in the same manner which was rejected by the learned Additional Sessions Judge and this Court and that, finally, the Supreme Court granted him bail by Order dated 10.11.2025 in CrPLA No. 1583 of 2025, on two grounds:

- i) that there is a marked unexplained delay in the lodgement of the FIR; and
- ii) that the role of the co-accused Abdul Rehman is that of a facilitator.

5. Learned Counsel then argued that there was a delay of eleven days in recording the statement of the injured witness, Sumair, and of one month in his Final Medico-Legal Certificate (FMLC) which casts doubts on its credibility. He stated that the case was the result

of enmity and deliberation and that in the circumstances of the case it is one of further investigation under Section 497(2) of the CrPC. Learned Counsel relied upon *Muazammil Hussain v The State and another* 2026 SCMR 917 to argue that bail could not be withheld out of the heinousness of the offence and could not be a substitute of punishment. He further pressed upon the rule of consistency to be extended to the Applicant in view of the Order of the Supreme Court. He finally prayed for the grant of bail.

6. On the other hand, Mr. Pervaiz Akhtar Talpur for the Complainant argued the delay of twenty-three hours was fully explained in the manner that the first priority of the Complainant was to save his injured sons and, in this regard, the injured victim, Sumair, was also referred to Hyderabad for treatment. He contended that the crime was promptly reported to the police and a Roznamcha entry was duly placed within one hour of the incident. He denied that the crime was the result of enmity and even otherwise stated that the same could not be considered at bail stage. He then contended that the statement of the injured victim, Sumair, under Section 161 of the CrPC clearly implicates the accused persons. He also relied upon the postmortem report of the deceased.

7. Learned Counsel then contended that the Applicant was delaying and prolonging the trial and, in this regard, he referred to the Compliance Report dated 12.09.2026 of the learned Additional Sessions Judge-I/Model Criminal Trial Court, Mirpurkhas, as also the case diaries of Sessions Case No. 04 of 2025, to show that the matter was being repeatedly delayed. In support of his arguments, learned Counsel relied on *Itbar Muhammad v The State and others* 2024 SCMR 1576, *Allah Dewayo Shahani v The State* 2023 SCMR 1724, *Sohail Waqar alias Sohaila v The State* 2017 SCMR 325, *Ali Muhammad v The State* 2022 YLR Note 8 and *Attaullah v The State* 2024 P.Cr.L.J 940. He finally prayed for dismissal of the bail application.

8. Mr. Neel Parkash, Deputy Prosecutor General Sindh, also strongly opposed the bail application and contended that there was a specific and direct role attributed against the Applicant. He contended that the accused persons were delaying the trial proceedings and as such there is an apprehension that they will

prejudice and prolong the proceedings if bail is granted. For the remaining part he raised identical arguments as Mr. Pervaiz Akhtar Talpur which do not need to be repeated, and finally he prayed for the dismissal of the bail application and submitted that the learned Court below may be directed to expeditiously proceed with the matter.

9. As far as the Order dated 10.11.2025 of the Supreme Court is concerned, there are two fundamental points to be noted. The first is that, even giving full effect to the observation of their Lordships as to delay, it is settled law that delay alone is not a ground for the grant of bail unless supported by surrounding circumstances. Consequently, the matter of delay cannot be looked in isolation and must be considered along with other factors. Reference may be made to *Haji Gulu Khan v Gul Daraz Khan and another* 1995 SCMR 1765 (Saiduzzaman Siddiqui J), *Mazhar Iqbal v The State and another* 2010 SCMR 1171, *Ghazi Arab v The State* CrPLA No. 1425 of 2024 (Judgment dated 22.07.2025; unreported) and *Abdul Jabbar and another v The State* 2012 P.Cr.L.J 786.

10. I now proceed to deal with the material aspects and grounds one by one.

11. The first aspect (which is the second point to note with regard to the Hon'ble Supreme Court's Order) is regarding the argument that the *rule of consistency* may be applied to the Applicant's case by granting him bail in the same manner as was granted to his co-accused, Abdul Rehman. However, the role attributed to co-accused Abdul Rehman cannot be placed on the same footing as that of the present Applicant. Abdul Rehman, who was allegedly armed with a hatchet and attributed a blow to injured Abdul Qadeer, was treated by the Honourable Supreme Court vide Order dated 10.11.2025 as having the role of a facilitator. The present Applicant, however, is assigned a substantially more direct and culpable role, which is that he was allegedly armed with a firearm and, when injured Sumair attempted to intervene and rescue Inamullah, the Applicant is alleged to have deliberately fired upon him, causing a firearm injury near his waist. The injured witness, Sumair, has also attributed this injury to the Applicant in his statement. The two accused, therefore, do not stand on an equal footing and the concession of bail extended

to Abdul Rehman cannot, by invocation of the rule of consistency, automatically be extended to the present Applicant.

12. This is not a case in which the Applicant is implicated solely through an omnibus allegation, vicarious liability or the role of mere presence. In a number of cases, including *Itbar Muhammad v The State* 2024 SCMR 1576, *Sher Muhammad v The State* 2008 SCMR 1451 and *Shoukat Ilahi v Javed Iqbal and others* 2020 SCMR 594, the Supreme Court has consistently treated specific nomination, a direct active role, supporting witness accounts and medical corroboration as material capable of constituting reasonable grounds at the tentative stage. The case of the Applicant must, therefore, be considered in this context and not mechanically by putting him at par with Abdul Rehman or even for that matter with any other accused.

13. The second ground is that the case has been filed after deliberation and is the result of enmity. However, the ground of enmity cannot be considered at bail stage being a double-edged weapon which can supply motive for both implication and offence. Similarly, the allegation of deliberation is a matter for trial which cannot be decided without evidence at the tentative stage of bail. Reliance is placed on *Raheem Bux v The State* 2017 YLRN 301 and *Muhammad Hanif and others v The State* 2013 P.Cr.L.J 1105.

14. The third and final aspect is that the statement of the injured victim/witness, Sumair, was recorded after delay and that his FMLC was prepared after one month. However, the effect of delay in recording the statement of the injured is a matter of trial and cannot be gone into at bail stage as no evidence is then available. In this regard, it has been held in *Abdul Aziz v Saleh Muhammad* 1990 SCMR 346 as follows:

“Referring to the second limb of the above second reason that the statements under section 161, CrPC of the four persons referred to in the impugned order of the High Court cannot be relied upon, reference may be made to an order of refusing leave in the case of *Abdul Aziz v. Saleh Muhammad* 1990 SCMR 346. This case was also decided incidentally by the above same Bench **and in which it was held that the effect of the delay in recording statement of prosecution witness could not be determined at bail stage and evaluation of his statement by comparing that statement of other**

witnesses would also not be justified at that juncture.”
[Emphasis added]

The same view has been followed by a Division Bench of this Court in *Hussain alias Muhammad Hussain v The State* Cr. Bail Application No. D-12 of 2020 (Order dated 12.01.2021; unreported) wherein it is held that at the tentative stage of bail a belated statement under Section 161 of the CrPC can be considered.

15. The record presently contains: (i) nomination of the Applicant in the FIR; (ii) a distinct allegation that he personally fired upon injured Sumair during the same transaction in which Inamullah was killed; (iii) the account of the complainant and other stated eyewitnesses; (iv) the statement of injured Sumair supporting that attribution; (v) medical material which, at least prima facie, is consistent with Sumair having sustained a firearm injury near the waist; and (vi) I have already held that the Applicant does not assume the same role as that of the co-accused, Abdul Rehman, and cannot therefore be given the benefit of the rule of consistency. As far as delay is concerned, even while bowing to the observation of the Hon’ble Supreme Court, it does not follow that delay alone, in the presence of the above circumstances, can entitle the Applicant to bail.

16. In *Khalid Saigol v The State* PLD 1962 SC 495, it has been held that reasonable grounds of guilt of the offences contemplated in Section 497(1) of the CrPC arise when the Court is “prima facie satisfied that some tangible evidence can be offered which, if left un rebutted, may lead to the inference of guilt before it can come to the conclusion that its discretion no longer exists.” In my view, such tangible material exists in the present case and that reasonable grounds for guilt of the Applicant are made out by the prosecution thereby disentitling him from the grant of bail under Section 497(1) of the CrPC.

17. Apart from this, it is well-established that bail may be refused in circumstances where it is shown that the defence is prolonging or prejudicing the trial. It has been brought on the record through a Compliance Report by the learned Court below as well as the case diaries filed by Mr. Pervaiz Akhtar Talpur that the defence is, in the present case, prolonging and delaying the trial by seeking

adjournments. Consequently, there is an additional ground on which the Applicant has disentitled himself from the concession of bail.

18. For these reasons, this application is dismissed. The learned Trial Court is directed to expeditiously proceed with the trial without any unnecessary adjournments and preferably on a day-to-day basis to comply with the directions of the Supreme Court of Pakistan. The trial should be completed positively within three months of this Order under fortnightly compliance reports to this Court.

JUDGE

APPROVED FOR REPORTING

FAISAL