

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-400 of 2025

(Neno and another vs. The State)

Applicants : 1. Neno s/o Naroo Bheel
2. Dado s/o Naroo Bheel
Through Mr. Altaf Hussain Junejo, Advocate.

Respondent : The State
Through Mr. Dhani Bakhsh Mari, Assistant P.G.

Complainant : Vishno s/o Tago Bheel
Through Mr. Hasan Mal Bheel, Advocate.

Date of hearing : 15.10.2026

Date of Order : 15.10.2026

ORDER

NISAR AHMED BHANBHRO, J: Through the instant bail application, applicants/accused Neno s/o Naroo Bheel and Dado s/o Naroo Bheel, seek post arrest bail under Section 497 Cr.P.C in F.I.R bearing Crime No.196 of 2025, registered at Police Station Tando Adam City for offence punishable under Sections 302, 201, 109, 34 P.P.C. Their earlier application for post arrest bail was dismissed by the learned Additional Sessions Judge-I/M.C.T.C, Tando Adam vide order dated 04-12-2025 passed in Criminal Bail Application No. 1496 of 2025, whereafter they invoked the jurisdiction of this Court.

2. The brief facts of the prosecution case as per F.I.R., lodged by complainant Vishnu Bheel on 14-08-2026 at P.S Tando Adam City are that he, along with his nephews had been residing in Village Muhammad Raho for about 10 years, where members of their community also reside. They have had a longstanding community dispute with Nitu Bheel and his family. Due to this dispute, Nitu and his wife namely Shr. Maiya, used to issue threat of dire consequences to them from time to time. Shr. Maiya frequently tell him (complainant) that one day she would have his entire family killed and destroyed. On 10-07-2025, in the evening, he, his cousin Baburoo son of Ameedo Bheel and his nephew Raju son of Gomoon were returning home after performing their labour work. On the way, they met his nephew Prakash Kumar, aged about 30 years. Upon inquiry, he told them that he was going to the cotton fields of Muhammad Raho to remove weeds. After proceeding a little further, they saw Nitu and Dadu, both sons of Naro Bheel, looking around suspiciously and walking quickly behind his nephew

Prakash Kumar. At that time, they became suspicious that something was wrong. However, as it was getting late, they rushed to their homes. A considerable amount of time passed, but his nephew Prakash Kumar did not return home. Thereafter, he along with the aforementioned witnesses, left home to search for him. They searched and made inquiries in the surrounding areas, but could not find any information about his whereabouts. As it was night time, therefore, they returned home. On the morning of 12-07-2025, they learnt through social media that the police of Odero Lal Station had recovered a dead body from the Sultanpur Branch Canal and that the body was lying at the government hospital in Odero Lal Station. Upon receiving this information, all three of them immediately reached the hospital, where saw the body and identified it as that of his nephew, Prakash Kumar. They observed that his arms and legs had been tied with rope and that there were injury marks on his neck and forehead. Thereafter, the police completed the necessary legal formalities, got conducted the post-mortem examination, and then handed over the body to them. They took the body home and performed his funeral and burial rites. After completing the funeral arrangements and attending to the visiting relatives and mourners, they approached the respectable elders of their community and requested them to obtain justice and an explanation from the accused namely Nitu and Dadu (present applicants) regarding the murder of his nephew Prakash Kumar. However, they told them that the accused were not under their control and advised them to approach the police station and lodge a complaint. Thereafter, he along with his nephews left the area and moved to Sindhri, where they established a residence. Having now completed the necessary arrangements, he appeared at the police station and lodged instant F.I.R.

3. Learned counsel for the applicants contended that alleged incident is unseen and the dead body of deceased was recovered within the jurisdiction of P.S Odero Lal while F.I.R was recorded at P.S Tando Adam City with a delay of about 34 days without explanation. He next contended that there is no direct evidence connecting the applicants with the commission of alleged crime and the applicants have been involved in this case on the basis of suspicions. He further submits that case of the applicants calls for further inquiry. Lastly, he prayed for the grant of bail to the applicants.

4. Conversely, learned Assistant P.G assisted by learned counsel for the complainant while controverting the submissions made by learned counsel for

the applicants, contended that applicants were arrested by the police and they confessed their guilt before police by recording statement(s) u/s 161 Cr.P.C, which is in consonance with the post mortem report. He further submits that enmity stands admitted and there is no reason to falsely involve the applicants in this crime. He further submits that alleged offence carries capital punishment; therefore, applicants are not entitled for concession of bail.

5. Heard arguments and perused the record. Perusal of material available on record reveals that alleged incident took place on 10-07-2025 whereas the F.I.R was registered on 14-08-2025 with a delay of about 34 days. The record further reveals that incident is un-witnessed; the dead body of deceased was recovered by Odero Lal police and brought at the hospital. The complainant party was informed about the recovery of dead body on the very day, but they remained mum and recorded F.I.R later on with a delay of about 34 days, hence deliberation and consultation to falsely involve the applicants in this crime cannot be ruled out at this stage, particularly when there is only allegation that applicants were seen going through the same way wherefrom deceased passed by earlier.

6. As far as the admission of guilt by the applicants before the police is concerned; same is not admissible piece of evidence in terms of Article 38 of Qanoon-e-Shahadat Order, 1984 and in absence of any proof of discovery of any incriminating evidence under Article 40 of the Qanoon-e-Shahadat Order, 1984, same cannot be relied upon safely. The applicants are in custody, no recovery has been affected from them, the incident is un-witnessed and applicants have been involved on the basis of suspicion. It is settled law that matter of suspicion, how so strong, cannot substitute the proof. In such circumstances, the case of the applicants falls within the ambit of section 497 (2) Cr.P.C entitling them for the grant of bail.

7. For the foregoing reasons and without expressing any final opinion on the merits of the case, the applicants have succeeded in making out a case for grant of post arrest bail. Consequently, the applicants namely Neno s/o Naroo Bheel and Dado s/o Naroo Bheel are admitted on bail subject to furnishing a solvent surety in the sum of Rs.100,000/= (Rupees One Hundred Thousand only) each and P.R. Bond in the like amount to the satisfaction of learned trial court.

8. Needless to observe that the findings and observations recorded herein are purely tentative in nature and confined to the disposal of the instant bail

application. The learned trial Court shall decide the case strictly on the basis of the evidence brought before it, independently and without being influenced by any observation contained in this order.

The instant bail application stands **allowed** accordingly.

JUDGE

Approved for reporting

Saleem