

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.723/2025

Applicants : Muhammad Naeem son of Muhammad Saleem,  
through Mr. Wazeer Hussain Khoso, Advocate

Respondent : The State  
through Mr.Qamaruddin Nohri. D.P.G. Sindh.

Complainant : Through Mr. Raja Hassan Nawaz,  
Advocate for complainant

Date of hearing : 21.04.2025  
Date of order : 28.04.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Muhammad Naeem seeks post-arrest bail in a case bearing Crime No. 225 of 2024 registered at P.S. Mithadar, Karachi, offence under Sections 302, 109, and 34 PPC. The allegation against the applicant arises in the backdrop of the targeted killing of one Osama Ahmed, aged 22 years, which took place on 18.11.2024 outside Rubi Centre, Karachi.

2. The facts, in essence are that the complainant Muhammad Asif, was informed by his brother that the deceased had been gunned down by an unknown individual. Upon reaching the spot, the complainant saw the deceased lying injured, who was then shifted to Civil Hospital, where he succumbed to injuries. The FIR was initially lodged against unidentified persons. During investigation, the complainant and his witnesses subsequently nominated the applicant and others, alleging that they had conspired in Punjab to orchestrate the murder and had hired assassins for Rs. 1 million.

3. Learned counsel for the applicant has advanced his submissions with vehemence and argued, inter alia, that the instant FIR has been lodged against an unknown assailant, described as a person wearing a mask, and no specific name was mentioned therein. However, during the course of investigation, the Investigating Officer (I.O.), in alleged collusion with the complainant and his family members, has implicated the present applicant

along with four others by name and four additional unknown individuals. It is contended that this development is reflected in the interim challan submitted before the concerned Judicial Magistrate. Learned counsel further submitted that, despite the absence of the applicant's name in the FIR, the learned Magistrate proceeded to issue warrants of arrest and directed his detention through a letter addressed to the Superintendent, District Jail Narowal, Punjab. He maintained that the non-mention of the applicant in the FIR casts serious doubt on the veracity of the prosecution's version, thereby making the case one of further inquiry. It was next contended that the investigation in the matter stands concluded, and an interim report has already been filed. The I.O., after obtaining requisite permission from the learned District and Sessions Judge, Narowal, interrogated the applicant within the confines of District Jail Narowal. It was urged that the applicant is no longer required for custodial investigation, and the purpose of arrest and remand having been served, the applicant is entitled to the concession of bail. Learned counsel also emphasized the cardinal principle that bail, not jail, is the rule, and that the object of bail is merely to ensure the presence of the accused before the Court, not to inflict pre-trial punishment. He submitted that continued incarceration of the applicant offends the settled norms of criminal jurisprudence and violates the constitutional guarantee of liberty under Article 9 of the Constitution. It was also submitted that the two prosecution witnesses, namely Tanveer Hussain and Waheed Ellahi, are closely related to the complainant and, therefore, are highly interested witnesses whose statements should be scrutinized with caution. Learned counsel further argued that there exists an element of mala fide in the prosecution's case, as the applicant's side had earlier lodged FIR No. 95/2024 in respect of the murder of one Ansar, husband of Asla Bibi, against PWs Akram, Ashraf, and Waheed, all of whom are absconding except Akram, who is on bail. In this backdrop, it was vehemently argued that a conspiracy allegedly hatched in the presence of these very persons is implausible and inherently contradictory. Additionally, it was contended that the deceased Ansar was an eyewitness in FIR No. 291/2022 pertaining to the double murder of M. Ahmed and Farukh, allegedly involving members of the complainant party, thereby supplying a motive for false implication. It was also urged that the social media posts purportedly showing CCTV footage of the murder were

not shared or disseminated by the applicant. More importantly, it was emphasized that the applicant was not present in Karachi at the time of the occurrence and was, in fact, confined in Punjab. No direct or indirect evidence connects him with the commission of the offence, thus making the case suitable for further inquiry under Section 497(2) CrPC. In conclusion, learned counsel submitted that the I.O. has already interrogated the applicant and he is no longer required for further investigation; hence, he is entitled to be admitted to bail. In support of his contentions, he placed reliance upon the cases reported as **PLD 2021 SC 708, 2023 SCMR 1140** and **2024 SCMR 476**.

4. The learned counsel for the complainant, while opposing the bail plea, submitted that although the applicant/accused was not nominated in the FIR, his name surfaced during the course of investigation. He was specifically implicated in the statements recorded under Section 161 Cr.P.C. on the same day of occurrence, i.e., 18.11.2024, by prosecution witnesses namely Muhammad Akram and Muhammad Ashraf. Subsequently, the Investigating Officer also recorded statements under Section 161 Cr.P.C. of Tanveer Hussain and Waheed Ellahi, who in categorical terms ascribed a pivotal role to the present applicant. It was averred that the accused, along with co-accused Muhammad Amjad, Muhammad Afzal, and Abdul Sattar, and four unknown persons, convened at his residence located in Daak Khana Nidala, Sulehria, Tehsil Shakargarh, District Narowal, Punjab, where they conspired to eliminate the deceased Osama. As per the said statements, an amount of Rs. 10,00,000/- was agreed to be paid to unidentified hired assassins to carry out the murder, with the said sum being arranged by Luqman. Thereafter, as per the information divulged by the witnesses, the execution of this conspiracy culminated in the murder of Osama at Karachi on 18.11.2024. The learned counsel further contended that there existed prior animosity between the complainant's family and the accused on account of a pending civil dispute, thereby providing a motive for the commission of the offence. It was emphasized that the witnesses who have implicated the applicant are independent and natural witnesses and have no apparent reason or mala fide to falsely implicate him. The learned counsel expressed apprehension that, if released on bail, the accused is likely to abscond or tamper with the

prosecution witnesses. In this regard, it was submitted that threatening messages were allegedly disseminated via social media, including a video clip of the murder of deceased Ansar, accompanied by menacing captions, indicating a threat to other members of the complainant's family. It was further submitted that the complainant has also challenged the bail-related proceedings before the Hon'ble Lahore High Court through Petition No. 11821/2025, wherein an order dated 25.01.2025 passed by the learned District & Sessions Judge, Narowal, has been assailed. It was argued that in the event of a favourable outcome in that petition, physical custody of the accused would likely be handed over to the investigating agency, enabling a more thorough and effective investigation. On these grounds, the learned counsel vehemently opposed the bail application and urged its dismissal. He placed reliance on a catena of judicial precedents including 2024 SCMR 1584, 1999 P.Cr.L.J 568, 2022 SCMR 955, 1999 P.Cr.L.J 582, 2010 P.Cr.L.J 907, 2024 SC 1419, 2020 SCMR 937, un-reported order of the High Court of Sindh vide Bail application No. 1109 of 2014, 2009 P.Cr.L.J 1058, 1999 P.Cr.L.J 579, 2002 P.Cr.L.J 289, 2023 SCMR 1182.

5. The learned Deputy Prosecutor General appearing on behalf of the State fully adopted the submissions advanced by the learned counsel for the complainant. He also opposed the grant of bail to the applicant, asserting that sufficient material has been collected during investigation connecting the accused with the offence, and thus, the case does not fall within the ambit of further inquiry.

6. Record reflects that the complainant lodged the FIR against the unknown individuals regarding murder of Osama on 18-11-2024. The incident is captured by the CCTV Footage wherein the I.O Opined that two unknown assailants came and out of which one of them make shot fire upon Osama who was died. Such CCTV footage is also forensically examined. Moreover, the name of present applicant came on surface after the recording of statements of four persons including the complainant u/s 161 Cr.P.C, recorded on the same date of FIR, who in their statements stated that Tanveer Hussain and Waheed Elahi disclosed to them Muhammad Naeem(applicant) and others in their house hatched a plan for killing

Osama and they heard their conversation on 15.11.2024. It does not appeal to a prudent mind that the alleged conspiracy was held on 15-11-2024 and if the complainant was in knowledge of their names so why not he named any of those persons who hatched conspiracy and more so no any complaint is on record after 15.11.2024 till the murder took place regarding such conspiracy allegedly by the applicant and others. In the light of the foregoing discussion, it is manifest that the case against the present applicant/accused is one of further enquiry. The further evidence collected during the investigation is primarily based on statements of those two persons namely Tanveer Hussain and Waheed Elahi whose statements were recorded at a belated stage under Section 161 Cr.P.C., which, according to settled legal principles, lose much of their probative value when not corroborated by any independent or contemporaneous material. These statements, given by witnesses who are themselves admittedly inimical towards the applicant, raise serious questions about their credibility and motive. The improbability of such witnesses entering the accused's private residence and overhearing a secretive criminal conspiracy, without any prior complaint or corroboration, further shakes the foundational integrity of the prosecution's narrative. Furthermore, the investigating officer has not collected any objective evidence, such as travel records, call data, or other electronic or forensic evidence, to establish the presence or involvement of the applicant in either the conspiracy or the execution of the crime. The plea of alibi raised by the accused, claiming his presence in Punjab at the relevant time, remains unrebutted by any substantial investigation.

7. It is also a cardinal principle of criminal jurisprudence that in cases resting upon such type of evidence, the chain of other circumstances must be completed and incapable of any explanation other than the guilt of the accused. In the present case, not only is the chain incomplete, it appears broken and fabricated, particularly in view of the animosity between the parties and the speculative nature of the allegations.

8. In such a situation, where serious doubts arise regarding the veracity of the prosecution case and the material available does not satisfy the requirement of prima facie guilt, the benefit must go to the accused even at

the bail stage. As held by the Hon'ble Supreme Court in a catena of judgments including *Muhammad Ejaz v. The State* (2022 SCMR 1271), *Muhammad Arshad v. The State* (2022 SCMR 1555), *Fahad Hussain v. The State* (2023 SCMR 365), and *Tariq Bashir v. The State* (PLD 1995 SC 34), the principle that “*benefit of doubt, if any, must always be extended to the accused*” applies equally at the bail stage. The case law relied upon by the learned counsel for the complainant, though enunciating well-settled principles of law, does not squarely apply to the peculiar facts and circumstances of the present case. Accordingly, the same is respectfully held to be distinguishable.

9. In view of the above, the case against the applicant calls for further inquiry within the meaning of Section 497(2) Cr.P.C., and he is thus entitled to the concession of bail. Accordingly, the applicant/accused Naeem is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of **Rs.5,00,000/- (Rupees five hundred thousand only)** and a personal bond in the like amount to the satisfaction of the learned trial Court. It is clarified that the observations made herein are purely tentative in nature and shall not influence the trial Court at the time of final adjudication of the case on merits.

**JUDGE**