

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No.06 of 2025

Applicant : Irfan Aziz S/o Riaz Ahmed  
through Ch. Muhammad Khalid Naseem,  
Advocate

Respondent : The State  
through Ms. Rahat Ahsan, Addl. P.G.

Date of hearing : 25.02.2025

Date of order : 25.02.2025

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.474/2024 for the offence under Section 302/34 PPC of PS Gulshan-e-Iqbal, after his bail plea has been declined by the learned IV-Addl. Sessions Judge, Karachi East vide order dated 16.10.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that name of the present applicant does not transpire in the FIR and in fact, on the statement of eye witnesses, he has been implicated in this case; that only role assigned against the applicant is that he run away with the main accused Shah Nawaz after committing the offence; that it is yet to be determined whether the present applicant has facilitated the main accused in committing the offence when evidence will be recorded; that nowhere it is mentioned that the present applicant has caused injuries to the injured. Lastly, he prays for grant of bail. In support of his contentions, he has relied upon the cases (i) 2023 YLR Note 182 (Ghulam Nabi vs. The State), (ii) 2022 YLR Note 78 (Nazar Muhammad and another vs. The State) and (iii) 2022 PCRLJ 1356 (Muhammad Saleem and others vs. The State).

4. On the other hand, learned Addl. P.G. has opposed for grant of bail.

5. Heard the parties and perused the material available on record.

6. From the face of FIR, it appears that the complainant namely Muhammad Raheem received information through telephone that accused Shah Nawaz alongwith other accused persons fought with Zubair Aziz and injured him with sharp article; as such, he was taken to hospital where he was died. The statement of two eyewitnesses namely Fazal and Rizwan was recorded wherein they have implicated the present applicant in the commission of alleged offence. Further, learned counsel for the applicant read over the 161 Cr.P.C. statement of injured Fazal wherein he has stated that main accused Shah Nawaz attacked upon Zubair with sharp article and injured him; however, present applicant Irfan Aziz has facilitated him while riding on the motorcycle. Admittedly, the present applicant has not caused any injury to deceased Zubair and only allegation against him is that he has facilitated the main accused in the commission of offence, which will be decided at the time of recording evidence. In the case of ***Mumtaz Hussain and 5 others v. The State (1996 SCMR 1125)***, wherein the bail was granted to the accused on the ground that despite being allegedly armed with deadly weapons like rifle, gun and hatchet only caused simple blunt injuries to some of the prosecution witnesses using the wrong side of their weapons. The question whether the accused in such a situation shared their common intention with the co-accused who had caused the death of the deceased needed further enquiry. In the instant case no role has been assigned against the applicant/accused and only mere presence is shown at the place of incident and it is yet to be seen when the evidence would be recorded whether he has shared his common intention to the main accused or not and at bail stage only tentative assessment is to be made. Learned counsel for the applicant prays that the applicant is in jail and he is no more required for further investigation and his further detention will not improve the case of the prosecution.

7. In view of the above, learned counsel for the applicant has made out a case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The applicant/accused named above is granted post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- and P.R. bonds in the like amount to the satisfaction of learned trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA