

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

1st Criminal Bail No.S-87 of 2025

Applicant: Allah Bux alias Allah Dino alias Israr son of
Mujeeb alias Taj Muhammad Chano Abro
through Mr. Ahmed Bux Abro, Advocate.

The State: Through Mr. Ali Anwar Kandhro, Additional
Prosecutor General, Sindh.

Date of hearing: 16.07.2025

Date of Judgment: 16.07.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The applicant Allah Bux alias Allah Dino alias Israr seeks post-arrest bail in Crime No. 13 of 2022, registered at Police Station Garhi Khuda Bux Bhutto for offences punishable under Sections 302, 392, 511, and 34 PPC. Earlier, his bail application was declined by the learned Additional Sessions Judge-III, Larkana, vide order dated 25.01.2025.

2. As per the FIR, on 28.08.2022, at around 1800 hours, the complainant and his son Safiullah were proceeding on a motorcycle when they were intercepted by three unknown persons near Mero Khan canal embankment, Deh Pathan. The accused persons allegedly attempted to snatch the motorcycle and cash. Upon resistance, one of the assailants opened fire at Safiullah, who suffered firearm injuries and later succumbed to them. The FIR was registered on 29.08.2022 at 2345 hours after a delay of about 29 hours wherein none of the accused were named.

3. The applicant was implicated at a later stage through the supplementary statement of the complainant and statements of the PWs recorded under Section 161 Cr.P.C. on December 04, 2024, claiming that they had identified the applicant as one of the assailants. However, no source of such identification was disclosed, nor was any test identification parade held before a Magistrate to verify such claim.

4. Learned counsel for the applicant has argued that:

- The applicant was not named in the FIR and his subsequent implication came with an unexplained and considerable delay;
- The delay of 29 hours in lodging the FIR, despite the police station being only a few kilometers away, casts doubt upon the spontaneity and credibility of the version;
- The applicant is a permanent resident of the area, was previously unknown to the complainant, and has no prior criminal record;
- No identification parade was held before a Magistrate despite the fact that the alleged culprits were unknown at the time of occurrence;
- All the PWs are closely related to the deceased, and no independent witness has been cited to corroborate the belated statements;
- No recovery was effected from the applicant and he has remained in custody for a considerable period without any substantive progress in trial.

5. In support of his contentions, learned counsel has relied upon the principles laid down in *Syed Saeed Muhammad Shah & others v. The State* (1993 SCMR 550), which holds that statements recorded by the police after an unexplained delay are to be excluded from consideration. He further referred to *Muhammad Tanveer v. The*

State (PLD 2017 SC 733), wherein the Hon'ble Supreme Court observed that delayed nomination of an accused without independent corroboration, particularly by related witnesses, undermines the prosecution's case and attracts the principle of further inquiry under Section 497(2) Cr.P.C.

6. The learned Additional Prosecutor General, Sindh opposed the bail application on the ground that the complainant and PWs have identified the applicant as one of the perpetrators and the offence involves the murder of an innocent person during an attempted robbery. He, however, did not contest the fact that no identification parade was conducted.

7. I have heard the arguments and perused the record with care.

8. It is an admitted position that the applicant was not named in the FIR, which was registered with a delay of more than one day. His implication surfaced through subsequent statements recorded after considerable delay, with no explanation provided as to how the complainant and PWs came to recognize the applicant as one of the three unknown persons who had allegedly committed the crime. No identification parade was held before a Magistrate, a crucial step that ought to have been taken in view of the initial anonymity of the accused. The complainant and all witnesses are closely related to the deceased, and no independent evidence has been produced in support of the belated identification.

9. This Court, in *Criminal Bail Application No. S-64 of 2025 (Amanullah Bhutto v. The State)*, while dealing with a similar issue of

delayed implication in supplementary statements, held that the failure to conduct an identification parade and the lack of source disclosure for naming the accused at a belated stage undermines the credibility of the prosecution case and renders it a matter of further inquiry.

10. In view of the foregoing, the following circumstances arise:

- Absence of the applicant's name in the FIR;
- Considerable and unexplained delay in his implication;
- No recovery from the applicant;
- No identification parade held;
- Close relationship of the complainant and PWs inter se;
- Lack of independent corroboration.

11. These cumulatively bring the case within the scope of further inquiry as contemplated under Section 497(2) Cr.P.C. Accordingly, the applicant has succeeded in making out a case for the grant of post-arrest bail. The instant bail application is allowed. The applicant Allah Bux alias Allah Dino alias Israr is admitted to post-arrest bail subject to his furnishing a solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

12. Needless to mention that the observations made hereinabove are purely tentative in nature and shall not influence the trial Court in deciding the matter on merits.

JUDGE

Asghar Altaf/P.A