

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No.S-344 of 2025

Applicant : Aijaz s/o Haji Khan Jat,
Through Mr. Ahmed Bux Abro, advocate

Complainant : Through Mazhar Ali Bhutto, advocate.

The State : Mr. Nazir Ahmed Bhangwar, DPG.

Date of hearing : 28-07-2025

Date of order : 01.08.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Aijaz Jat seeks post-arrest bail in a case bearing crime No. 38/2024, for offence u/s 302,337-H(ii),148,149 PPC of P.S Mahota. His earlier bail application was dismissed by the learned 3rd Additional Sessions Judge, Larkana, vide an order dated 13.12.2024.

2. The prosecution story as set forth in FIR is that on 06.07.2024 at 0200 hours, in the house of complainant Mst. Imamzadi Peerzado, situated in Peer Haji Mehmood Shah, Taluka and District Larkana, applicant/accused along with rest of co-accused named in the FIR, all armed with pistols, formed an unlawful assembly and in prosecution of common object, committed murder of Shahid Mehmood Peerzado, brother of complainant, as well as made Ploting and so also made aerial firing.

3. Learned counsel has contended that the applicant is innocent and has been falsely implicated due to a pre-existing land dispute. It is argued that the role specifically assigned to the present applicant in the FIR is that of resorting to aerial firing, and not of causing any injury to the deceased. Counsel further submits that there is a delay in the registration of the FIR and that the witnesses, being related to the complainant, are interested and their testimony is unreliable. Therefore, the case of the applicant is one of further inquiry. He relied upon the case law cited at 2020 MLD 786, 1998 SCMR 454 and 1996 SCMR 1654.

4. Conversely, the learned DPG, representing the State, has vehemently opposed the application. He argues that the applicant is clearly nominated in the FIR, was armed with a deadly weapon (a pistol), and was part of an unlawful assembly formed with the common object to commit murder. He submits that the applicant's presence and act of aerial firing facilitated the principal accused in the commission of the heinous offence and served to terrorize the complainant party. He supports the impugned order of the learned trial court, stating it is well-reasoned and requires no interference.

5. Heard arguments from both sides and have meticulously perused the record, including the FIR and the impugned order passed by the learned Additional Sessions Judge III, Larkana.

6. The contentions raised by the applicant's counsel hold little merit at this stage. The applicant is not only named in the FIR but is also attributed with a specific overt act. While the counsel attempts to downplay his role as mere "aerial firing," this cannot be viewed in isolation. The applicant was allegedly present at the scene of the crime, armed with a pistol, as part of an unlawful assembly. In such circumstances, the principle of vicarious liability, as enshrined in Section 149 of the Pakistan Penal Code, 1860, is prima facie attracted. His act of firing, even if into the air, demonstrates his active participation and shared common object with the co-accused who fired upon and killed the deceased. In these scenario, the case law provided by the learned advocate viz. 1998 SCMR 454 & 2020 MLD 786 are clearly distinguishable from the peculiar facts and circumstances of the case.

7. I have also examined the impugned order dated 13.12.2024. The learned trial court has rightly observed that the applicant has a clearly defined role in the commission of the alleged crime and is explicitly named as being armed with a deadly weapon. The trial court correctly noted that the post-mortem report and the recovery of bullet empties from the place of a wardat lend credence to the prosecution's account. The reasoning provided by the lower court for declining bail is sound and based on a proper appreciation of the material available on record.

8. The argument regarding false implication due to enmity is a matter of deeper appreciation of evidence, which is not permissible at the bail stage. The Honourable Supreme Court in case of Chairman

NAB Vs. Nisar Ahmed Pathan (PLD 2022 SC 475) has reiterated that courts must refrain from conducting a detailed examination of evidence at this preliminary stage. The presence of reasonable grounds to believe that the applicant is connected with an offence falling within the prohibitory clause of Section 497(1) Cr.P.C. is sufficient to deny the concession of bail.

9. For the foregoing reasons, I am in agreement with the findings of the learned trial court. There are sufficient grounds to believe that the applicant was involved in the commission of a heinous offence punishable with death or imprisonment for life. No case for the grant of bail is made out. Consequently, this Criminal Bail Application is found to be devoid of merit and is hereby dismissed. It is clarified that the observations made herein are tentative in nature and shall not influence the learned trial court during the final adjudication of the case.

J U D G E

Asghar Altaf/P.A