

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Bail Application No. S-398 of 2025

Applicant: Mashooque son of Bajhi Shar,
Through Mr. Ajeebullah Junejo, Advocate

The state: Through Mr. Muhammad Raza Katohar, Deputy
Prosecutor General Sindh a/w Mst. Mai Pathani,
injured.

Date of hearing: August 04, 2025
Date of order: August 08, 2025

ORDER

Khalid Husain Shahani J:- Applicant Mashooque Shar seeks post-arrest bail in a case bearing cime No. 108/2024 registered at P.S. Patni, offence under sections 302, 324, 311, and 34 PPC. His earlier bail application was dismissed by the learned Additional Sessions Judge-II, Sukkur, vide order dated March 7, 2025.

2. The facts, as per the FIR lodged by ASI Ghulam Ali on behalf of the State, are that on August 28, 2024, at about 11:00 pm, he and his patrol party were near the Shar community houses when they heard cries. Upon entering a house, they allegedly witnessed the applicant Mashooque armed with a pistol, co-accused Badal with a lathi, and one unidentified person. It is alleged that the applicant Mashooque fired his pistol, causing fatal injuries to Mst. Shahnaz and injuring Mst. Pathani. The motive for the incident was stated to be 'Karo Kari'.

3. Learned counsel argued that the applicant is innocent and has been falsely implicated by the police. He contends that the prosecution's case, which hinges on the testimony of chance witnesses (the police party), is inherently doubtful. The primary thrust of his argument is that the case now presents two conflicting versions, making it a classic case of further inquiry. He has stated that the sole injured eyewitness, Mst. Mai Pathani, has completely absolved the applicant. He points out that Mst. Pathani previously filed an affidavit disowning the police version, attempted to have her statement recorded under Section 164 Cr.P.C. before the learned Judicial Magistrate, Rohri (which was declined on 23.12.2024), and has now

appeared in person before this Court to reiterate that the applicant is innocent and that she has no objection to him being granted bail. Learned counsel further submits that co-accused Badal has already been granted bail, and thus, on the grounds of further inquiry and the rule of consistency, the applicant is entitled to the concession of bail. In support of his contentions, he has placed reliance on the case reported as 1991 SCMR 111.

4. Conversely, the learned Deputy Advocate General, appearing for the State, has strongly opposed the application. He submits that the applicant is nominated in the FIR with the specific and brutal role of murdering one woman and attempting to murder another over the pretext of 'ghairat'. He argues that the FIR was lodged promptly by police officials who were eyewitnesses to the occurrence. He contends that any subsequent change in the statement of the injured witness is likely the result of pressure or collusion and should not be given weight at the bail stage over the initial version recorded in the FIR. He concludes that the learned trial court rightly dismissed the prior bail application and that there are reasonable grounds to believe the applicant has committed an offence falling within the prohibitory clause of Section 497(1) Cr.P.C.

5. I have heard the learned counsel for the parties, the learned Deputy Advocate General, and have also taken note of the statement of the injured eyewitness, Mst. Mai Pathani, who is present in Court.

6. The applicant is nominated for allegedly committing a heinous offence. However, the grant or refusal of bail is not to be determined by the gravity of the allegations alone. The pivotal aspect of this case, at this stage, is the stance of the sole injured eyewitness, Mst. Mai Pathani. The trial court, in its order dated 07.03.2025, had dismissed the applicant's bail primarily on the grounds that her affidavit of no objection was unverified. The circumstances have now materially changed. Mst. Pathani has not only attempted to formally record a statement exonerating the applicant before a Magistrate but has now taken the significant step of appearing in person before this Court. She has unequivocally stated that the applicant is not the perpetrator and that she has no objection to his release.

7. When the only person who was injured in the incident and witnessed the murder of her own sister makes such a statement in open court, it cannot be lightly brushed aside. Her direct testimony casts a serious shadow of doubt over the entire prosecution narrative, creating a clear conflict between the version of the police (as chance witnesses) and the version of the victim-eyewitness. This brings the applicant's case squarely within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. The deeper appreciation of whether the FIR version or the witness's current stance is truthful is a matter for the trial court to determine after recording evidence.

8. For the foregoing reasons, as the case requires further inquiry, this bail application is allowed. The applicant Mashooque son of Bajhi Shar shall be released on bail subject to furnishing a solvent surety in the sum of Rs. 200,000/- (Two Hundred Thousand Rupees) and a P.R. bond in the like amount to the satisfaction of the trial court.

9. It is clarified that these observations are tentative in nature and are strictly limited to the assessment of this bail application. They shall not prejudice the rights of either party during the trial.

J U D G E