

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

2nd Criminal Bail Application No. S-451/2025

Applicant : Sikander Ali S/O Ameer Ali @ Khan Chacha,
Through Mr. Ghulam Shabbir Shar, Advocate

Complainant : Khalid Ali S/O Sadique Ali Gadani
Through Mr. Muhammad Ali Dayo, Advocate

State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 11.08.2025

Date of Order : 22.08.2025

ORDER

KHALID HUSSAIN SHAHANI, J. –Applicant Sikandar Ali seeks post-arrest bail in a case bearing crime No.10/2018, registered at Police Station "C" Section Sukkur, for offence under Sections 302, 311, 337-H (2), 148, 149, 452 PPC. Earlier his bail was declined by the court of learned Additional Sessions Judge-III, Sukkur vide order dated 25.09.2024.

2. The brief facts of the prosecution case are that on 25.02.2018 at about 05:00 am, complainant Khalid Ali along with his cousin Mst. Noreen, sister-in-law Mst. Aroosa and aunt Mst. Seemi Khatoon was sleeping when accused Yousif, Javed, Ameer Ali @ Khan Chacha, Ghamtal, Sikandar (present applicant), Zaheer, Mukhtiar, Manzar @ Sooraj, Shoukat, and Asghar, all armed with repeaters, entered their house. On the instigation of accused Manzar @ Sooraj, the accused persons including the present applicant Sikandar made straight fires upon complainant's father Sadiq Ali, mother Mst. Khatoon and aunt Mst. Seemi Khatoon, resulting in their deaths at the spot due to multiple bullet injuries.

3. After usual investigation, report u/s 173 Cr.P.C was submitted against the accused. The present applicant remained at large since 2019 and was finally arrested on 14.12.2023, having remained a fugitive from law for about four years.

4. It is pertinent to note that this Court vide order dated 13.05.2019 while disposing of Criminal Bail Applications No. S-540/2018, S-605/2018, and S-157/2019, declined pre arrest bail of the applicant Sikandar Ali by observing "prima-facie sufficient evidence is available against the applicant Sikandar Ali to connect him with the commission of alleged offence, carrying punishment for death and imprisonment for life." Following this order, the applicant became a fugitive from law and remained absconding until his arrest in December 2023.

5. The learned advocate for the applicant vehemently argued that there is a delay of about one day and 12 hours in the lodgment of FIR without plausible explanation, which shows mala fide and due deliberation on the part of the complainant. He contended that the entire family members have been implicated and there is no specific motive against the present applicant, as the enmity was between the complainant party and accused Muhammad Yousif. He submitted that not a single witness has been examined despite the case being pending since 2018, and the court diaries reflect non-examination of witnesses from 14-12-2023. The counsel emphasized that the applicant has been behind the bars since 2023 and argued that prolonged detention without conclusion of trial violates the principles of natural justice. He further contended that the complainant has committed murder and such case bearing crime No. 39/2025 of P.S Khanpur Mahar is registered against him, raising questions about the complainant's credibility. In support of his contentions, he cited 2024 SCMR 28, regarding delay in conclusion of trial, 2011 MLD 155, 2003 P.Cr.L.J 93, and 1994 SCMR 393.

6. Conversely, the learned counsel for the complainant vehemently opposed the bail application on compelling grounds. He argued that the complainant is on pre-arrest bail granted by the Sessions Court, which demonstrates his confidence in the case and willingness to face trial. He submitted that the applicant has been specifically nominated in the FIR with a definite role of firing upon the deceased persons, supported by ocular account of eye witnesses. The counsel particularly emphasized that the applicant is a fugitive from law, having remained absconder for four years after this Court recalled his interim pre-arrest bail in 2019, and since then he remained absconder, demonstrating his flight risk and disregard for court

orders. He contended that such conduct disentitles the applicant from any discretionary relief and militates against grant of bail.

7. The legal precedents cited by the applicant's counsel regarding trial delays must be examined in the context of the applicant's conduct as a fugitive. The Supreme Court in *Aihtesham Ali v. The State* (2023 SCMR 975) established that an accused seeking bail must show that "he had not done or suffered any act which would disentitle him to a discretionary relief in equity e.g. he had no past criminal record or that he had not been a fugitive at law." In the present case, the applicant's conduct as a fugitive for four years clearly disentitles him to any such discretionary relief. The case of *Allah Dewayo Shahani v. The State* (2023 SCMR 1724) is directly applicable, where the Supreme Court held that when an accused is named in FIR with specific role and sufficient incriminating material is available, bail should be refused. The Court observed that fugitive behavior particularly militates against grant of bail in murder cases. In *Muhammad Boota v. The State* (2019 SCMR 1532), the Supreme Court categorically held that "a person who chooses to remain fugitive from law and evades the process of law disentitles himself from any discretionary relief including bail." This principle directly applies to the present applicant who remained absconder for four years.

8. A comprehensive analysis of the material on record reveals that this is not a fresh bail application to be decided on merits for the first time. The applicant's bail was already considered and rejected by this Court in 2019 on the finding that prima facie sufficient evidence exists connecting him with the commission of the offence. This Court specifically observed that the applicant had been nominated with specific role of causing firearms injury to the deceased, and medical evidence supported the prosecution case.

9. The most damning factor against the applicant is his conduct as a fugitive from law. After this Court recalled his interim pre-arrest bail in May 2019, instead of surrendering before the law, the applicant chose to evade arrest and remained absconder for approximately four years until his arrest in December 2023. Such conduct demonstrates willful disobedience to court orders, complete disregard for the rule of law, and establishes him as a serious flight risk.

10. The arguments regarding delay in FIR and non-examination of witnesses lose their significance when viewed against the applicant's fugitive conduct. The applicant cannot take advantage of trial delays while he himself has been evading the process of law. The principle of equity and good conscience prevents a fugitive from claiming relief on grounds that may have been created or contributed to by his own conduct.

11. The case involves Section 302 PPC (murder) which prescribes punishment of death or imprisonment for life, falling squarely within the prohibitory clause of Section 497(1) Cr.P.C. The prosecution has established reasonable grounds through specific nomination of the applicant with definite role, eye witness testimony, and medical evidence. The previous judicial determination by this Court finding prima facie case adds further strength to the prosecution's position.

12. The fact that co-accused persons may have been treated differently is irrelevant, as each accused's case must be decided on its individual merits and conduct. The applicant's fugitive behavior distinguishes his case from any co-accused who may have faced trial or surrendered to law.

13. After careful consideration of the arguments advanced by both parties, examination of the legal precedents, and comprehensive evaluation of the material on record, this Court finds that the applicant has disintitiled himself from any discretionary relief by his conduct as a fugitive from law for about four years.

14. The Supreme Court has consistently held that discretionary relief of bail is based on principles of equity and good conscience, which cannot be extended to those who willfully evade the process of law. The applicant's conduct demonstrates complete disregard for court orders and establishes him as a flight risk, making him unsuitable for the concession of bail.

15. Furthermore, this Court had already examined the case on merits in 2019 and found prima facie sufficient evidence connecting the applicant with the commission of murder. No new circumstances have

emerged that would warrant a different conclusion. The case involves the most serious offence of murder falling within the prohibitory clause, supported by specific evidence against the applicant.

16. The arguments regarding trial delays and non-examination of witnesses cannot benefit an accused who has himself been evading trial for four years. The principle of law is well-settled that no person can take advantage of his own wrong, and the applicant cannot claim relief on grounds partly created by his own fugitive conduct.

17. Keeping in view the serious nature of charges involving triple murder, the specific nomination of the applicant with clear role supported by evidence, his conduct as a fugitive from law for four years after this Court's order, the previous judicial determination finding prima facie case, and the principles established by superior courts that fugitive behavior disentitles an accused from discretionary relief, this Court finds no merit whatsoever in the instant post-arrest bail application.

18. The Criminal Bail Application No.S-451 of 2025 is hereby dismissed. However; the learned trial court is directed to expedite the trial and conclude the same preferably within three months from the receipt of this order.

J U D G E