

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

Criminal Bail Application No.S-523 of 2025

Applicant : JHANDO @ HAJAN SON OF SHAHZADO  
Through Mr. Ghulam Shabbeer Shar,  
Advocate

Complainant : MUHAMMAD BUX S/O MUREED HUSSAIN  
Through Mr. Irshad Hussain Dharejo,  
Advocate

Respondent : The State  
Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 11.08.2025

Date of Order : 22.08.2025

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**ORDER**

**Khalid Hussain Shahani, J.:**-- Applicant Jhando @ Hajan seeks post-arrest bail in a case bearing crime No.76/2023, registered at Police Station Mirwah, offence under Sections 302, 324, 337-H-2, 147, 149 PPC. Prior to this, bail of applicant was declined by the learned trial court vide order dated 26.03.2025.

2. As per prosecution theory, on 20.04.2023, the complainant Muhammad Bux Bhanbhan lodged FIR alleging therein that Atta Hussain party though being relatives were on dispute, threatened to father of complainant that one day he would be murdered. On the fateful day, complainant along with his father went to lands to look-after the crop. When they reached near Masjid of accused Atta Hussain party at about 08.00 am, found applicant co-accused Atta Hussain, Akbar, Rajib with pistol, Muhammad Sadique armed with deadly weapons. It is alleged that on gun point they were intercepted. Meanwhile, co-accused Atta Hussain with intention of committing murder fired K.K to complainant's father Mureed Hussain; besides, applicant and all other co-accused also fired upon, as a result his father died at the spot. Consequent upon; case was registered inter alia on above facts.

3. The learned advocate for the applicant vehemently argued that there is a delay of 08 hours in lodging of FIR without plausible explanation, which creates serious doubt about the genuineness of the prosecution case. He contended that there exists deep-rooted enmity between the complainant and co-accused Atta Hussain, which has

resulted in false implication of the present applicant due to his association with the said co-accused. He submitted that there is only general allegation of firing against the present applicant without specific role being attributed to him in the commission of the offence, making it a case based on suspicion rather than reasonable grounds. The learned counsel emphasized that the applicant was arrested on 12-01-2025 and has been behind bars for a considerable period while the trial has not yet been completed and only 04 witnesses have been examined out of many, making it a case of prolonged detention without conclusion of trial. He argued that no useful purpose would be served by keeping the applicant in further custody, as the case requires further inquiry under Section 497(2) Cr.P.C. and the applicant is entitled to the benefit of doubt at bail stage. The counsel contended that nothing has been recovered from the possession of the applicant and no independent witnesses have been cited in the FIR, with all witnesses being close relatives of the complainant and therefore interested, whose testimony cannot be relied upon. In support of his contentions, he placed strong reliance upon the cases reported as 2022 SCMR 198, 2020 SCMR 956 and 2021 SCMR 87, arguing these precedents establish principles favoring grant of bail where case requires further inquiry and there are contradictions in prosecution evidence.

4. Conversely, the learned DPG for the State duly assisted by Mr. Dharejo, advocate for the complainant vehemently opposed the post-arrest bail application on multiple compelling grounds. He argued that the accused is specifically named in the FIR with a definite role in the commission of the murder, having been identified as one of the armed assailants who fired pistol shots at the deceased. The DPG submitted that the delay of 08 hours in lodging the FIR has been adequately explained considering the traumatic circumstances and the need to arrange for postmortem and funeral proceedings, which does not cast doubt on the prosecution case. He emphasized that prosecution witnesses have testified about 06 injuries sustained by the deceased Mureed Hussain, which were through and through bullet wounds, and the medical evidence fully supports the prosecution version. Learned DPG particularly stressed that co-accused Rajib Ali's bail was dismissed on the same role by this Court on 04.10.2024, and the present applicant had twice sought bail before the trial court,

which was dismissed vide Bail Applications No.1299/2023 dismissed on 27-06-2023 and BA No. 2240/2023 dismissed on 26-08-2023, demonstrating that he is a fugitive from law who has been avoiding trial. He argued that important witnesses including the complainant, eye witness Abdul Jabbar, Doctor and Tapedar have been examined, and on the last date PWs were present but the defence counsel sought adjournment, now the court is lying vacant, showing prosecution's readiness to proceed. The DPG contended that this is a case of cold-blooded murder where multiple accused persons acting in concert brutally killed an innocent person, making it a heinous crime that falls squarely within the prohibitory clause of Section 497(1) Cr.P.C. In support of his arguments, he relied upon the cases cited as 2023 SCMR 1724, 2022 SCMR 640, PLJ 2020 SC 224, and 2022 SCMR 1381, arguing these authorities establish that where an accused is specifically named with clear role in murder cases, bail should be refused.

5. Before discussing the merits of the case, it is imperative to highlight the positions of the case laws rationed with the peculiar facts and circumstances. The case law cited by learned counsel for applicant in 2022 SCMR 198 established principles regarding bail where the Supreme Court held that only general role of firing had been ascribed, however, in the present case the accused is named and given the specific role of making fire. The Supreme Court in the same judgment observed that the protection is based upon equity and cannot be extended in every criminal case, *prima facie*, founded upon incriminatory evidence, warranting custody for investigation purposes. This precedent actually militates against the applicant's case rather than supporting it, as the present case involves clear incriminatory evidence and the accused has already been arrested and charged.

6. The reliance on 2020 SCMR 956 (*Mukaram v. The State*) is equally misplaced in the present circumstances. While this judgment observed about the indiscriminate firing and general allegations saddled with responsibilities of causing injury to the deceased. In the instant case, the specific role, with previous hostility and other incriminating material available to include the present applicant within the four corners of tentative *prima facie* involvement. There is no contradiction in the roles attributed to the accused, and the prosecution has eye witness testimony supported by medical

evidence showing 06 through and through bullet injuries on the deceased.

7. Similarly, the case law 2021 SCMR 87 (Shareef Khan v. The State) dealt with principles for cancellation of bail, emphasizing that for cancellation of bail exceptional grounds are required, and if the bail granting order is patently illegal, erroneous, factually incorrect and has resulted in miscarriage of justice, it may be recalled. This precedent has no application to the present post-arrest bail application where the question is whether bail should be granted in the first instance, or whether already granted bail should be cancelled. The legal standards and considerations for grant of bail are entirely different from those applicable to cancellation of bail.

8. The case law relied upon by the learned counsel for complainant in 2023 SCMR 1724 (Allah Dewayo Shahani v. The State) is directly applicable to the present facts. The Supreme Court in this landmark judgment held that when an accused is named in FIR with specific role of causing injury to the deceased, and there is sufficient incriminating material available on record, the case does not call for any inquiry at bail stage. The Court observed that mere allegations of enmity or false implication cannot override clear evidence connecting the accused with the commission of offence. In the present case, the applicant Jhando @ Hajan is specifically named in the FIR as having fired pistol shots at the deceased along with co-accused, which constitutes clear incriminating evidence that does not warrant further inquiry at bail stage. The precedent in PLJ 2020 SC 224 established that where there are eye witnesses to the occurrence and the accused is positively identified, bail should be refused particularly in murder cases. The Supreme Court has consistently held that eye witness testimony, when corroborated by medical evidence, provides sufficient grounds to refuse bail in cases falling within the prohibitory clause. In the present case, the complainant Muhammad Bux is an eye witness who directly saw the applicant firing at his father, and this testimony is corroborated by medical evidence showing 06 bullet injuries on the deceased. The judgment in 2022 SCMR 1381 reinforced the principle that consistency in bail matters does not apply when the roles of co-accused are different or when one accused has stronger evidence against him. This Court in Muhammad Shoaib v. The State (2018 YLR Note 120) categorically held that "in criminal administration of justice,

the case of each and every accused is different from the case of co-accused and it could not be said that the case of one accused is identical to the case of the other accused". This principle directly applies to the present case where the applicant cannot claim benefit merely because some co-accused may have been treated differently.

9. Section 302 PPC prescribes punishment of death or imprisonment for life, which falls squarely within the prohibitory clause of Section 497(1) Cr.P.C. that states an accused shall not be released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life. The Islamabad High Court in Barkat Ullah's case comprehensively analyzed the scope of prohibitory clause and held that the expression "punishable" refers to the maximum punishment provided for an offence, and if an offence is punishable by death or life imprisonment, then subject to other legal grounds, the same would attract statutory prohibition contained in section 497(1) Cr.P.C. The Supreme Court in Abdul Malik v. The State (PLD 1968 SC 349) defined "reasonable grounds" as an expression which connotes that the grounds be such as would appeal to a reasonable man for connecting the accused with the crime with which he is charged, "grounds" being a word of higher import than "suspicion". The Court held that however strong a suspicion may be, it would not take the place of reasonable grounds, and the reasonableness of the grounds has to be shown by the prosecution by displaying its cards as it may possess demonstrating evidence available in the case both direct and circumstantial. In the present case, the prosecution has established reasonable grounds through: (a) specific nomination of the applicant in FIR with clear role of firing pistol shots; (b) eye witness testimony of complainant Muhammad Bux who directly witnessed the murder; (c) corroborative testimony of other witnesses including Abdul Jabbar; (d) medical evidence showing 06 through and through bullet injuries consistent with firing by multiple accused; (e) recovery and identification of the deceased at the scene. This evidence clearly establishes reasonable grounds as required under the prohibitory clause.

10. A comprehensive analysis of the merits reveals that the prosecution case is built on solid foundation of direct evidence rather than mere suspicion or circumstantial evidence. The FIR lodged by complainant Muhammad Bux provides a detailed and coherent

narrative of the incident, specifically identifying the applicant Jhando @ Hajan as one of the armed assailants who fired pistol shots at the deceased Mureed Hussain. The complainant, being the son of the deceased and direct eye witness, has no reason to falsely implicate the applicant unless he actually witnessed the crime. The allegation of enmity between complainant and co-accused Atta Hussain does not extend to the present applicant, and even if such enmity existed, it cannot override the clear evidence of the applicant's participation in the murder. The argument regarding delay of 08 hours in FIR registration is without merit when viewed against the traumatic circumstances where a son witnessed his father's brutal murder and had to arrange for postmortem, funeral, and burial ceremonies before approaching police. The Supreme Court has consistently held that delay in lodging FIR by itself does not make the case doubtful unless there are other compelling circumstances indicating fabrication. The medical evidence provides crucial corroboration by establishing that the deceased sustained 06 through and through bullet injuries, which is consistent with the prosecution version of multiple accused firing simultaneously.

11. The testimony of eye witness Abdul Jabbar, who arrived at the scene upon hearing cries and witnessed the aftermath, provides additional corroboration to the complainant's version. The fact that the applicant has been a fugitive from law, having sought bail twice before the trial court which was dismissed, and his co-accused Rajib Ali's bail being dismissed on similar grounds, demonstrates a pattern of conduct that militates against grant of bail.

12. The Peshawar High Court in PLD 2013 Peshawar 120 comprehensively analyzed the scope of Section 497(1) Cr.P.C. and held that bail could only be refused to an accused if sufficient material had been brought on record showing reasonable ground to believe that accused was guilty of an offence punishable with death or imprisonment for life. However, the Court also established that where the accused satisfies the court that reasonable grounds are available to believe that he was not guilty of the offence then the court must release him on bail irrespective of the fact that offence fell within the prohibitory clause. In the present case, the applicant has failed to satisfy the court that he is not guilty, and the evidence on record establishes reasonable grounds for his involvement in the murder.

13. The Supreme Court in 2010 SCMR 580 enumerated factors to be considered while dealing with bail applications: (a) whether there is reasonable ground for believing that the accused has committed the offence; (b) whether the case requires further enquiry; (c) nature and gravity of the charge; (d) severity of punishment; (e) danger of absconding; (f) danger of witnesses being tampered with; (g) danger of offence being repeated. In the present case, all these factors weigh against grant of bail as the accused is charged with murder (most serious offence), faces death penalty or life imprisonment (severest punishment), has shown tendency to abscond (fugitive behavior), and witnesses are family members who could be influenced.

14. After exhaustive analysis of the arguments advanced by both sides, the legal precedents cited, and comprehensive evaluation of the material on record, this Court finds that the prosecution has established reasonable grounds to believe that the applicant has committed the alleged offences. The applicant Jhando @ Hajan is specifically named in the FIR with a definite role of firing pistol shots at the deceased, supported by eye witness testimony of the complainant and corroborated by medical evidence showing multiple bullet injuries on the victim. His conduct as a fugitive from law, having repeatedly sought bail which was denied, further militates against his case. The delay of 08 hours in FIR registration is adequately explained by the traumatic circumstances and does not create doubt about the genuineness of the prosecution case. The arguments regarding enmity and general allegations are without substance when viewed against the specific evidence connecting the applicant to the crime.

16. The case involves Section 302 PPC (murder) which is punishable with death or life imprisonment, thus falling within the prohibitory clause of Section 497(1) Cr.P.C. The legal precedents cited by the applicant are distinguishable and do not support his case, while the authorities relied upon by the State are directly applicable and support refusal of bail. The fact that co-accused Rajib Ali's bail was dismissed on similar grounds by this Court demonstrates consistency in judicial approach. The prosecution is ready to proceed with trial as evidenced by examination of key witnesses, while defence has been seeking adjournments.

17. Keeping in view the serious nature of the charges involving cold-blooded murder, the specific nomination of the applicant with clear role supported by eye witness testimony and medical evidence, his conduct as fugitive from law, the application of prohibitory clause, and the principles established by superior courts that reasonable grounds exist for believing the applicant has committed the offence, this Court finds no merit whatsoever in the instant post-arrest bail application. Accordingly, it stands dismissed. However, learned trial court is directed to conclude the trial preferably within three months after receipt of this order.

18. The observations made above are tentative in nature and shall not affect the interest of either parties.

**J U D G E**