

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No.S-194 of 2025

Applicant: Babu @ Nimano son of Muhib Ali by
caste Jafferi, *through* M/S. Muhammad
Afzal Jagirani and Hayat Muhammad,
Advocates.

The State: *through* Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh

Date of Hearing: 29-09-2025.

Date of Order: 29-09-2025.

ORDER

Ali Haider 'Ada', J:- Through the instant bail application, the applicant seeks post-arrest bail in Crime No.72 of 2024 registered at Police Station Lakhi Gate for offences punishable under Sections 302, 148, and 149, PPC. The FIR reflects that the alleged incident took place on 03.07.2024, whereas it was reported to the police on 10.07.2024. Earlier, the applicant had approached the learned Additional Sessions Judge-I, Shikarpur, for the same relief; however, his bail plea was declined vide order dated 26.03.2025.

2. The brief facts of the case are that the complainant, along with her deceased husband Gulzar Ali and another relative, was present at their house when the present applicant, being a neighbor, insisted that the deceased accompany him for some personal work. Initially, the deceased avoided, but later on, he agreed and went along with the applicant on his motorcycle. Subsequently, the complainant developed suspicion and, therefore, along with her sons Soomar Khan and Qaim Khan, followed them on another motorcycle. Upon reaching the pointed place, they allegedly saw the accused persons namely Ghulam Haider @ Misri, Ali Mardan, and two unknown persons. The accused encircled and stopped the vehicle. It is alleged that the present applicant caused the deceased to fall from his motorcycle, whereafter the co-accused, as mentioned supra, fired upon the deceased, causing him fatal firearm injuries. It is further alleged that, in order to save himself from suspicion of the complainant party, the applicant sustained an injury on his palm from the accused,

apparently to create a pretext of saving his own skin. Thereafter, the accused party fled away from the scene. The complainant party, being overawed due to the firing, remained silent at that time. After the funeral ceremony of the deceased, the complainant lodged the FIR.

3. Learned counsel for the applicant submits that the present applicant has not played any role in the commission of murder of the deceased. A bare perusal of the FIR reflects that a separate set of accused is assigned the role of causing fatal firearm injuries, whereas the applicant is only alleged to have facilitated the occurrence. It is further argued that no specific injury to the deceased has been attributed to the applicant; rather, the applicant himself sustained an injury at the hands of the accused. The said injury was duly recorded by the police in the memo prepared on the very day of incident, and the applicant was referred to the hospital for treatment. Learned counsel contends that the allegations against the applicant require determination at the time of trial, hence the case calls for further inquiry. He also emphasized that there is a delay of several days in lodging of the FIR, which gives rise to a strong possibility of false implication. Lastly, he prayed for grant of post-arrest bail.

4. Conversely, learned Deputy Prosecutor General submits that a prima facie case stands established against the applicant, as he facilitated the commission of the offence by taking the deceased from his house and producing him before the co-accused, who then caused the fatal firearm injuries. He further argued that the ocular account is fully supported by the medical evidence. As for the injury sustained by the applicant, it is explained in the FIR itself that the same was received in order to create a false defence of saving his skin. Learned DPG therefore argued that, at this stage, the applicant is not entitled to the concession of bail. He further requested that, if bail is declined, a direction may be issued to the trial Court for concluding the proceedings within the shortest possible time.

5. It has been observed that despite issuance of notice, none appeared from complainant side. However, SIP Shahid Ahmed Memon filed his statement along with the relevant record, wherein it has been disclosed that the son of the complainant is booked in FIR No.16 of 2024 registered at Police Station Amrot Sharif, and that the complainant, along with her other family members, has left her residence for an unknown place, due to which

the notice could not be served. In these circumstances, the arguments advanced by the learned Deputy Prosecutor General are also taken into consideration as representing the stance of the complainant.

6. Heard the learned counsel for the parties and perused the material available on record.

7. It is a matter of record that the alleged incident took place on 03.07.2024, whereas the FIR was lodged on 10.07.2024, with an unexplained delay of seven days. Such inordinate delay in setting the law into motion, without furnishing any plausible explanation, casts serious doubt upon the veracity of the prosecution case, particularly regarding the involvement of the present applicant. It further appears from the record that immediately after the occurrence, the present applicant himself appeared before the police, whereupon ASI Asghar Ali Sanjrani prepared a memo of injuries sustained by the applicant. This aspect prima facie creates doubt and suggests that the subsequent nomination of the applicant in the FIR may be the result of afterthought, which cannot be ruled out at this stage. In support of this view, reliance is placed on the case of *Mazhar Ali v. The State* (2025 SCMR 318).

8. Furthermore, as per the prosecution case, the applicant also sustained a firearm injury at the hands of his co-accused, which the prosecution seeks to portray as an act done “to save his skin.” Such a stance, however, requires proper determination at the time of recording of evidence. At this juncture, it would not be justifiable to hold that the applicant voluntarily received a firearm injury at his own will and choice. This circumstance itself creates doubt, and it is a settled principle of law that circumstance creating doubt entitles the accused to its benefit. It is equally well-established that the benefit of doubt can be extended to an accused even at the stage of bail. Support is drawn from the case of *Naveed Sattar Vs. The State* 2024 SCMR 205.

9. Even on a bare reading of the FIR, no specific or direct allegation has been attributed to the applicant regarding the commission of the murder of the deceased. There is no specific or active role prescribed therein to establish his involvement as a principal offender. Reliance in this regard may be placed upon the case of *Naeem Sajid v. The State* (2025 SCMR 129).

10. In view of the foregoing reasons, the applicant has succeeded in making out a case for the grant of post-arrest bail, as the matter squarely falls within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C. Accordingly, the instant bail application is allowed, and the applicant, Babu @ Nimano son of Muhib Ali, by caste Jafferri, is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a personal bond in the like amount to the satisfaction of the learned trial Court. Needless to observe, the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial.

J U D G E