

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No. S-691 of 2024

Applicant : Naseer Muhammad son of Bhanbho Khan
Meno, through Mr. Suhendar Kumar
Gemnani, Advocate

Complainant : Umed Ali @ Papan, through Mr. Nawabuddin
Chandio, Advocate.

Respondent : The State
Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh along with SIP/IO
Azhar Hussain Chandio.

Date of Hearing : 23.10.2025

Date of Order : 23.10.2025

ORDER

AMJAD ALI SAHITO, I-- Through this Bail Application, the applicant/accused Naseer Muhammad seeks pre-arrest bail in Crime No.19 of 2024 registered with Police Station Shaheed ASP Fatah Hayat Mekan, District Kamber, for the offence under Sections 302, 149 & 149 PPC, after his bail plea has been declined by the learned Addl. Sessions Judge-II, Kamber, vide order dated 23.10.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, the applicant is innocent and has falsely been implicated in this case; that the FIR is delayed for one day, for which no plausible explanation has been furnished; that there is no any specific role against the applicant and there is only general allegation against him; that the applicant was declared innocent by the I.O in investigation and his name was kept in column No.2 for which concerned Magistrate did not agree and ordered for further investigation by the officer not below the rank of DSP, who also declared him innocent. Lastly, he prays for confirmation of bail.

4. On the other hand, Mr. Nawabuddin Chandio, Advocate files Vakalatnama on behalf of the complainant, same is taken on record. He opposes the bail application and submits that applicant/accused is nominated in the FIR with specific role as he tied the deceased and then co-accused committed his murder. Learned Deputy P.G, Sindh, also opposes the bail application.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that on 18.11.2024, the instant pre-arrest bail application was filed and on the same day, interim pre-arrest bail was granted to the applicant/accused. This pre-arrest bail application is pending before this Court almost for one year and on one or the other pretext, the applicant or his counsel is always called absent. Same was the position on the last date of hearing, when the applicant and his counsel were called absent and the matter was adjourned for today. Today, the position is also same, which shows that the applicant is deliberately avoiding to proceed with the matter and from his conduct, it appears that for last one year, he is enjoying pre-arrest bail in a murder case. However, from perusal of record, it reflects that name of the applicant/accused appeared in the FIR with specific role that he along with co-accused entered into the house of the deceased where they tied rope to the brother of the complainant namely Inayat Hussain and thereafter his neck was cut/ slit by co-accused Mst. Sonia.

7. So far the plea raised by learned counsel for the applicant that name of the applicant was placed in column No.2 of the police challan filed under Section 173 Cr.P.C is concerned, it is suffice to say that opinion of the police officer is not binding upon the Court and while taking cognizance against present applicant/accused, the learned Magistrate has given cogent and reasonable ground and did not agree with the report filed by the police officer and joined the applicant as an accused person. Per learned counsel for the complainant, he is the main accused who has played a vital role for committing the murder of brother of the complainant. The ocular evidence finds support from the medical evidence. The PWs in their 161 Cr.P.C. statement have also supported the version of the complainant. At bail stage, only tentative assessment is to

be made. No ill-will or malafide or enmity has been pleaded by the learned counsel for the applicant for false implication of the applicant in this case. The offence in which applicant is involved, falls within the ambit of prohibitory clause of section 497 Cr.P.C, whereas, the punishment provided by the law is death or imprisonment for life.

8. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of '*Rana Abdul Khaliq v. The STATE and others*' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

9. In view of the above, learned counsel for the applicant / accused has failed to make out a case for grant of bail. Resultantly, the instant Bail Application is **dismissed**. The interim pre-arrest bail granted to the applicant/accused vide order dated 18.11.2024 is hereby recalled.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants/accused on merits.

JUDGE