

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

1st. Cr. Bail Application No. S- 540 of 2025

(*Shah Nawaz Jatoi v. the State*)

Date	Order with signature of Judge
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- 1. For orders on office objection.
- 2. For hearing of bail application.

27.10.2025.

Mr. Safdar Ali Ghouri, Advocate for the Applicant.
Mr. Nazeer Ahmed Bhangwar, Deputy Prosecutor General, Sindh.

Ali Haider ‘Ada’-J:- Through this bail application, the applicant seeks post-arrest bail in Crime No. 18 of 2025 registered at Police Station Amrot Sharif for offences punishable under sections 302, 34, and 311 PPC. The FIR was lodged on 26.07.2025 at about 1430 hours regarding an incident allegedly occurring on 26.07.2025 at about 12:30 a.m. (night). Prior to filing the present application, the applicant had approached the Sessions Judge, Shikarpur, where the matter was entrusted to the 1st Additional Sessions Judge, Shikarpur, who, after hearing the parties, dismissed the same vide order dated 13.09.2025.

2. The prosecution story in brief is that the complainant, SIP Mir Muhammad Soomro, received spy information that the accused Kashmir and Luqman Jatoi had taken a woman named Mst. Zahida (deceased) from her house a few days earlier and were proceeding on a motorcycle towards the river bank of Kher Thar with the intention of killing her and concealing her dead body. On receipt of this information, the police party proceeded to the place indicated and observed the accused Kashmir and Luqman, who had placed a woman on the ground and fled away on a motorcycle. When the police reached the scene they found marks of rope and signs of strangulation on the neck of the woman, who was dead. Thereafter the police registered an FIR against Kashmir and Luqman. Following registration of the FIR, on 28.07.2025 the investigation officer recorded

further statements of SIP Mir Muhammad, during which the name of the applicant/accused Shah Nawaz transpired and it was alleged that he, together with the nominated accused, had committed the murder of Mst. Zahida on the pretext of honour. Separately, Mst. Shehr Bano, the mother of deceased, moved an application under sections 22-A & 22-B, Cr.P.C on 19.08.2025 against nominated accused Kashmir and Luqman. The statement of the legal heir was also recorded by the police; she stated that Luqman and Kashmir had committed the murder of her daughter and that Shah Nawaz (the applicant/accused) was not involved, describing him as the uncle/brother of her husband.

3. Learned counsel for the applicant contends that a plain reading of the FIR shows no name of the applicant as a perpetrator of the murder and that the prosecution case rests primarily on subsequent statements implicating the applicant. It is argued that the co-accused, Luqman and Kashmir, intended to return the deceased woman to her elders but, in the meantime, an offence was committed by them; in that scenario there is nothing on the face of the FIR attributing any role to the applicant. The applicant is said to be a paternal uncle of the deceased and there is no material explaining why he would have any motive to kill her. The further statement of the complainant was recorded after a delay of two days and, importantly, the legal heirs also nominated only Luqman and Kashmir; they did not nominate the present applicant. In view of these lacks, it is urged that the matter falls within the category of cases requiring further inquiry.

4. Conversely, the learned Deputy Prosecutor General submits that the police acted upon spy information and that, during investigation, circumstances emerged implicating the present applicant in the commission of the offence; therefore, it is submitted that the applicant is not entitled to bail.

5. Heard the arguments and perused the material available on record with judicious scrutiny.

6. According to the prosecution, only two accused persons, namely Kashmir and Luqman, were specifically nominated in the FIR with their

respective roles, whereas the name, role, or any allegation of conspiracy against the present applicant is altogether missing. Furthermore, the applicant's name does not find mention in the FIR and has merely surfaced in the subsequent statement of the complainant, which was recorded by the investigating officer after a delay of two days. Even in that further statement, there is no indication as to the source of information or material connecting the applicant with the commission of the alleged offence. On a plain reading of the said statement, no active role or participation has been attributed to the applicant. Reliance in this regard is placed on the case of *Hafiz Farhat Abbas v. The State through Prosecutor General Punjab, Lahore and another* (2025 SCMR 1509). Similarly, support is drawn from the case of *Ejaz Ahmad Chaudhary v. The State through Prosecutor General Punjab and another* (2025 SCMR 1596). Further reliance in this regard is placed on the case of *Hussain Ahmed v. The State and others* (2021 SCMR 1263).

7. It is a case of lack of support from the prosecution, as there exists a material conflict between the statements of the witnesses. If the legal heirs had exonerated all the accused persons, it could be presumed that they had deliberately resiled from their earlier stance. However, in the present case, both the mother and father of the deceased have fully supported the prosecution's version against the co-accused. Insofar as the involvement of the present applicant is concerned, they categorically stated before the police that he is the paternal uncle of the deceased lady and that he had, in fact, exerted pressure upon the co-accused to return Mst. Zahida safely. Thus, his alleged involvement appears to be misconceived, as the material on record suggests that he was in contact with the legal heirs with the object of recovering the alleged detainee, not for committing her murder. The term "further enquiry" as envisaged under section 497(2), Cr.P.C. comes into play where the material on record raises doubt as to the guilt of the accused. The legislative intent behind section 497(2), Cr.P.C. is that the precondition to establish guilt must rest upon reasonable grounds; however, if there exists a possibility of drawing a second view from the available material, the accused becomes entitled to the concession of bail within the spirit of the said provision. Support in this regard is drawn from

the case of *Jahanzeb and others v. The State through Advocate-General, Khyber Pakhtunkhwa, Peshawar and another* (2021 SCMR 63).

8. It is well settled that the mere heinousness of an offence does not, by itself, disentitle an accused from the grant of bail if his case falls within the purview of section 497(2), Cr.P.C. The principle is that the gravity or severity of the charge cannot override the statutory right to bail where the material available on record gives rise to doubt or calls for further inquiry into the guilt of the accused. The Honourable Supreme Court of Pakistan, in the cases of *Nasir Khan v. Waseel Gul and another* (2011 SCMR 710) and *Husnain Mustafa v. The State and another* (2019 SCMR 1914), has held that the mere heinousness of an offence is not a valid ground for refusing the concession of bail to an accused who, otherwise, becomes entitled to such relief within the spirit of section 497(2), Cr.P.C.

9. The investigation has already been completed, and the applicant is no longer required by the police for the purpose of further investigation. Therefore, his continued incarceration would serve no useful purpose for the prosecution. It is a settled principle of law that the liberty of a person is a valuable and fundamental right, which cannot be curtailed except on strong and exceptional grounds supported by cogent material. Mere bald or unsubstantiated allegations are insufficient to justify the deprivation of liberty. Reliance in this regard is placed on the cases of *Muhammad Nawaz alias Karo v. The State* (2023 SCMR 734) and *Noor Kamal and another v. The State and another* (2023 SCMR 999).

10. Keeping in view the above facts and circumstances, the instant bail application is hereby granted, subject to the applicant furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One hundred thousand only) and a personal bond (P.R.) in the like amount to the satisfaction of the learned trial Court. Needless to mention, the observations made herein are tentative in nature and shall not prejudice the case

JUDGE