

# IN THE HIGH COURT OF SINDH AT KARACHI

## **Criminal Bail Application No.1582 of 2025**

Abdul Sami son of Allah Jurriyo.....Applicant/Accused

Versus

The State.....Respondent

*Date of Hearing* : 27.10.2025

*Date of Order* : 27.10.2025

For the Applicant : M/s. Imtiaz Ali Shah and Deedar Ali Khoso, Advocates.

For the complainant : Mr. Shamsuddin Bhayo, Advocate.

For the State : Mr. Muhammad Noonari, D.P.G.

### **ORDER**

**TASNEEM SULTANA, J:** Through this Criminal Bail Application, the applicant seeks pre-arrest bail in Crime No.194 of 2022 registered at Police Station Bin Qasim, Karachi, under sections 302/34 read with 109 PPC 512 Cr.P.C. Earlier same relief was granted by the learned VIIIth Additional Sessions Judge, Malir Karachi but was recalled vide order dated 12.06.2025.

2. Brief facts of prosecution case are that the complainant Sher Rehman lodged FIR alleging that on 01-06-2022 at about 4:30 p.m., after completing his duty along with his elder brother Habib-ur-Rehman, both were returning home on separate motorcycles from KIA Industrial Area. When the complainant reached near FFBL turn close to Ghaggar Railway Bridge, Bin Qasim, Karachi, his brother was fired upon by the present applicant along with Muhammad Moosa, Shafqat Ali and Javed Ahmed, all armed with pistol and riding on three motorcycles. The alleged motive behind the occurrence is stated to be ancestral enmity between the parties. The deceased sustained firearm injuries and later expired at Jinnah Hospital.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated owing to deep-rooted tribal hostility; that the FIR was lodged with a delay of one day without plausible explanation, which prima facie indicates deliberation and consultation; that though it appears from the FIR that the complainant was accompanying the deceased at the relevant time, no

specific overt act has been assigned to the present applicant. Counsel further submitted that two witnesses, namely PW Ayaz Ali and PW Abdul Hameed, were subsequently introduced by the complainant's father and their statements were recorded on 12.07.2022 nearly twelve days after the incident wherein they claimed that on 01-06-2022 they were waiting for the deceased and the complainant at a hotel near Ghaggar Phatak, heard the sound of firing, and on reaching the opposite side of the road saw the deceased lying in a pool of blood and identified six accused persons, including the present applicant. Learned counsel argued that had they actually witnessed the occurrence, their non-appearance before the police on the day of incident or soon thereafter is wholly inexplicable, rendering their statements doubtful and an afterthought. It was further contended that as per the Investigating Officer's report, the applicant's CDR location was traced to his native place Ghotki on the day of occurrence, which negates his presence at the crime scene. A co-accused Farman Ali has already been granted bail; hence, on the rule of consistency, the applicant deserves similar treatment.

4. Learned D.P.G., assisted by the complainant, opposed the application, submitting that the complainant was present with the deceased at the time of incident and has directly implicated the applicant.

5. Heard. Record perused.

6. Before examining the factual matrix, it is to be observed that at the stage of deciding a bail application, the Court is not required to embark upon a deeper appreciation of evidence or to assess the probative worth of the material in detail. The exercise is confined to a tentative assessment essentially a bird's-eye view of the available record to see whether a prima facie case exists or whether the matter calls for further inquiry within the meaning of Section 497(2) Cr.P.C. This judicial restraint is meant to ensure that bail proceedings do not prejudice the ultimate determination of guilt or innocence at trial.

7. From the contents of the FIR, it appears that on 01-06-2022 the complainant Sher Rehman, while returning home with his brother Habib-ur-Rehman, witnessed the latter being allegedly fired upon near FFBL turn, Ghaggar Railway Bridge, by the present applicant Abdul Sami, and his other companions, resulting in his

death. The incident was reported the next day on 02.06.2022, alleging motive of ancestral enmity.

8. The FIR was lodged with a delay of one day without plausible explanation, which prima facie affects its spontaneity. It appears from its contents that the complainant was accompanying the deceased at the time of occurrence; however, subsequently two witnesses, namely Ayaz Ali and Abdul Hameed, were introduced by the complainant's father whose statements were recorded after about twelve days, on 12.07.2022. They stated that on the day of incident they were waiting for the complainant and the deceased at a hotel near Ghaggar Railway Bridge, heard the sound of firing, and on reaching the opposite side saw the deceased lying in a pool of blood and identified six accused persons including the applicant. If these witnesses were actually present at the spot, their failure to approach the police on the same day or even within a reasonable time. The belated recording of their statements without any cogent reason prima facie appears to be an afterthought meant to strengthen an already set narrative.

9. The investigating officer's report further reveals that the CDR location of the present applicant was found at his native place Ghotki on the day of incident, thereby negating his presence at the crime scene. The allegation of abetment under Section 109 PPC thus appears to have been added subsequently without any independent corroboration. The longstanding enmity between the parties, acknowledged in the FIR itself, cannot be overlooked while evaluating the possibility of mala fide in the nomination of the applicant. A co-accused Farman Ali has already been extended the concession of bail, and the present applicant stands on identical footing.

10. Cumulatively, the above circumstances render the prosecution case against the applicant open to serious doubt at this stage and bring his case within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. Accordingly, the interim pre-arrest bail already granted to the applicant is confirmed on the same terms and conditions. The foregoing observations are purely tentative and shall not prejudice the trial Court while deciding the case on merits.

JUDGE

Ayaz Gul