

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail App. No. /2024

PRESENTED ON

07-12-2024

Jawed Inyatullah
S/o Inyatullah,
Muslim, Adult, Presently
Confined at Central Jail,
Karachi-----

2880

[Signature]
Deputy Registrar

Applicant /Accused

7007

ANU KU Ghalib No. 1
26-C Ghalib Colony VERSUS

The State -----Respondent

FIR No. 286/2023

U/S 396, 397/302, 34 PPC.

P.S. Korangi, East

BAIL APPLICATION U/S 497 Cr.P.C.

Being aggrieved and



153

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No.2880 of 2024

Applicant : Jawed Inayat son of Inayatullah
Through Mr. M. Khan, adv. for Applicant/accused.

Respondent : The State
Through Mr. M. Raza, Dy. Prosecutor General

Date of Hearing : 13.03.2025

Date of Order : 21.03.2025.

ORDER.

Jan Ali Junejo, J.— The present Criminal Bail Application has been filed on behalf of the Applicant/Accused, who is seeking post-arrest bail in connection with a case stemming from FIR No.286 of 2023, registered at P.S. Korangi, Karachi, under Sections 396/397/302/34, P.P.C. The Applicant/Accused initially approached the learned Sessions Court by filing Bail Application in Sessions Case No.972 of 2024, which was subsequently dismissed by the Court of the learned Vth Additional Sessions Judge, Karachi-East, vide Order dated 02-05-2024.

2. The facts relevant to the present criminal bail application are as follows:



"On 10-05-2023, at 2330 hours, Syed Safdar Hussain Rizvi, a resident of House No. 75-C, Sector 35/A, Korangi No. 4, Karachi, reported that his son, Azhar Hussain, and his friend Hamza were standing outside a company House No.C-75, Sector 35/A, Compound Area, Korangi No.4, when three unknown individuals on a motorcycle attempted to snatch their mobile phones. When Azhar resisted, one of the robbers fired at him with a pistol, causing him to fall injured. The suspects fled the scene on their motorcycle. Azhar was taken to Jinnah Hospital but succumbed to his injuries during treatment. Syed Safdar Hussain Rizvi, who had been in Islamabad for business, returned and learned of his son's death. He lodged FIR against the three unidentified robbers, requesting legal action for the murder of his son."

3. The learned counsel for the Applicant has argued that there is a delay of 21 hours in lodging the FIR without any explanation, despite the police station being only 1.5 km from the incident site in a thickly populated area. He further contends that the applicant's name is not

mentioned in the FIR, and there is no identification parade or timely submission of evidence, suggesting preplanning in this case. He argues that the applicant's involvement is based solely on another FIR, where the accused was arrested in the same police station, indicating a pattern of preplanning. He further contends that the incident occurred on 10-05-2023, but the FIR was lodged on 11-05-2023, and witness statements under Section 161 Cr.P.C. were recorded on 15-05-2023, with no explanation for the delays. He contends that no crime weapon, such as a pistol, was recovered from the applicant, and there are no eye witnesses as per the FIR. He further argues that the witnesses are close relatives of the deceased, and the complainant was not present during the incident, making the case highly doubtful and fit for further inquiry under Section 497(2) Cr.P.C. He contends that the applicant has no prior convictions or pending cases and has been falsely implicated with malafide intentions by the police in collusion with the complainant. In light of the above arguments and case laws, he prays that this Honorable Court may be pleased to grant bail to the applicant in the interest of justice.

4. The learned Deputy Prosecutor General (DPG) opposed the bail application and argued that the delay in lodging the FIR does not undermine the prosecution's case, as the complainant was in Islamabad and returned to Karachi upon learning of his son's death. He further contends that the absence of the applicant's name in the FIR does not absolve him, as the investigation revealed his involvement based on evidence and witness statements. He argues that the recovery of the crime weapon is not always necessary for establishing guilt, and the presence of close relatives as witnesses does not discredit their testimony. He further contends that the applicant's involvement is supported by his arrest in a related FIR, indicating a pattern of criminal behavior. He contends that the delay in recording witness statements under Section 161 Cr.P.C. is not



unusual in complex investigations. He further argues that the applicant's prior criminal record, if any, and the gravity of the offense, including the murder of the deceased, warrant dismissal of bail to ensure justice and prevent tampering with evidence or influencing witnesses. Lastly, he prayed that the bail application should be dismissed in the interest of justice.

5. Upon careful consideration of the arguments advanced by both sides and a meticulous examination of the material available on record, the following findings and reasons are recorded: Although the Applicant/Accused is not named in the FIR, which was lodged against unknown persons, the record reveals that he, along with co-accused Shahid, was arrested on 11-05-2023 in connection with another crime (FIR No.282/2023) under Sections 353, 324, and 34 PPC. Eyewitnesses of the present crime identified the Applicant/Accused at the lockup as one of the culprits, and he confessed to his involvement in the presence of eyewitnesses and the complainant. This is further corroborated by the statements of prosecution witnesses, including the complainant and another private witness, recorded under Section 161 Cr.P.C. Additionally, the empty cartridge recovered from the crime scene matches the pistol recovered from the Applicant/Accused at the time of his arrest, as per the ballistic expert report, strongly supporting the prosecution's case. The heinous nature of the crime, involving attempted robbery and the fatal shooting of the complainant's son, Azhar Hussain, places it within the prohibitory clause of Section 497 Cr.P.C., making it non-bailable. The defense has not alleged any mala-fide on the part of the complainant, police, or prosecution witnesses, further strengthening the prosecution's case. The arguments raised by the learned counsel for the Applicant/Accused, based on a deeper appreciation of evidence, are not warranted at this bail stage, as the Court's role is limited to determining



whether a prima facie case exists. In light of these findings, the Applicant/Accused is actively involved in the alleged offense, and the gravity of the crime, coupled with the evidence on record, justifies the denial of bail. This Court, in the case of *Aijaz Ali v. The State* (2005 YLR 3360), has previously ruled under similar circumstances that granting bail to individuals accused of robbery would undermine public safety and create a sense of insecurity within society.

6. In light of the foregoing reasons, the present bail application filed on behalf of the Applicant, being devoid of substantive merit, is hereby dismissed. The observations made in this Order are limited to the adjudication of this bail application and will not affect the rights of either party during the trial. These are the reasons for the short Order dated: 13-03-2025.



JUDGE

THE HIGH COURT OF SINDH, KARACHI
CERTIFIED TO BE TRUE COPY

(MUHAMMAD SARFARAZ)
LC / ASSISTANT REGISTRAR (COPYING)

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