

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

*Criminal Bail Application No. S- 727 of 2025.
(Abdul Ghafoor Vs. The State)*

Applicant: **Abdul Ghafoor Dahalkhani Magsi S/o Muhammad Mithal, through Mr. Muhammad Ali Pirzada, Advocate.**

The State: **Through Mr. Nazeer Ahmed Bhangwar, Deputy Prosecutor General, Sindh.**

Complainant Gulzar Ali, present in person.

Date of hearing: **29.01.2026.**

Date of Order: **29.01.2026.**

ORDER

Ali Haider 'Ada', J:- Through this application, the applicant seeks post-arrest bail in Crime No.60 of 2021 registered at Police Station Behram, District Kamber-Shahdadkot @ Kamber, for an offence punishable under Sections 302 and 34, PPC. Before this, the applicant approached the learned trial Court; however, vide order dated 09.12.2025, his bail application was dismissed.

2. Briefly, the prosecution's case is based on the FIR lodged on 21.08.2021, whereas the date of the incident is mentioned as 20.08.2021. It is alleged therein that the present applicant, namely Abdul Ghafoor, whose name was not mentioned in the Fir but shown that one unknown along with the co-accused, committed the murder of the complainant's brother, namely Imdad Ali Magsi, after the FIR was registered.

3. Learned counsel for the applicant submits that there is an unexplained delay in the registration of the FIR. He further contends that the name of the applicant does not appear in the FIR and that he

was subsequently introduced in the prosecution case through a further statement. It is also argued that no recovery has been effected from the applicant. Learned counsel further submits that the brother of the complainant has filed a no-objection certificate with regard to the grant of bail.

4. Conversely, learned DPG submits that the role of the present applicant has transpired during the investigation, as the deceased was allegedly murdered by the principal accused Munawar along with another person who was initially unknown but was later identified as the present applicant through the complainant's further statement. He further submits that the legal heirs of the deceased are not attracted to file a no-objection affidavit in support of the applicant, as the complainant's brother has filed an affidavit to that effect. It is also contended that substantial evidence has already been recorded by the trial Court. On these grounds, learned DPG prays for dismissal of the bail application.

5. Heard the learned counsel for the parties and examined the material available on record.

6. Admittedly, the offence alleged against the applicant is one under Section 302, P.P.C., which is punishable with death or imprisonment for life and, as such, squarely falls within the prohibitory clause of Section 497(1), Cr.P.C. It is a settled proposition of law that in cases falling within the prohibitory clause, the grant of post-arrest bail is circumscribed and can only be extended if the case falls within the exceptions provided therein, namely: (i) under the first proviso to Section 497(1), Cr.P.C., where the accused is a woman, a minor, or a sick or infirm person; (ii) under the third proviso to Section 497(1), Cr.P.C., where there is an unreasonable delay in the conclusion of the trial, not attributable to the accused; and (iii) under Section 497(2), Cr.P.C., where the case calls for further inquiry into the guilt of the accused. Upon a tentative

assessment of the material available on record, the applicant's case does not appear to fall within the ambit of further inquiry to attract the provisions of Section 497(2), Cr.P.C. In this regard, reliance may be placed on the cases of **Bakhti Rehman v. The State (2023 SCMR 1068)** and **Muhammad Atif v. The State (2024 SCMR 1071)**.

7. It is further well-settled that where there exist reasonable grounds to believe that an accused has committed an offence punishable with death or imprisonment for life, the case attracts the prohibitory clause of Section 497, Cr.P.C. In the present matter, the allegations levelled against the applicant carried such punishment; therefore, the statutory bar under the said provision is clearly attracted. Reliance in this respect is placed upon the judgments of the Honourable Supreme Court in **Sher Muhammad v. The State (2008 SCMR 1451)** and **Shoukat Ilahi v. Javed Iqbal and others (2010 SCMR 966)**, wherein it was held that:

*"6. We have given due consideration to the submissions made and have gone through the material available on record. From the record, we find that the name of the petitioner was mentioned in the F.I.R.; that the motive had been alleged against him; that a specific role of raising lalkara was assigned to him and that it was specifically mentioned that he and his co-accused fired at the deceased, which hit him. The P.Ws. have supported the case in their 161, Cr.P.C. statements which is further corroborated by the medical evidence, as according to the Medical Officer the deceased had six firearm entry injuries out of them two were exit wounds. Thus, *prima facie* incident has been committed by more than one person. From the material available on record, we are of the view that there are reasonable grounds for believing that the petitioner is involved in the case."*

8. At the bail stage, a deeper scrutiny or a meticulous appraisal of the material available on record is neither warranted nor desirable, as such an exercise may prejudice the merits of the case at trial. However, a tentative assessment of the available material *prima facie* connects the applicant with the commission of the alleged offence, which falls within the ambit of the prohibitory

clause of Section 497, Cr.P.C. Support in this regard is drawn from the case of **Ghazi Arab v. The State (2025 SCMR 1967)**.

9. In view of the facts and circumstances of the case, the applicant has failed to make out a case for the grant of post-arrest bail. Consequently, his post-arrest bail application is dismissed.

JUDG E

S.Ashfaq/-.