

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

*Criminal Bail Application No. S- 513 of 2025.
(Mirza Khoso Vs. The State)*

Applicant: Mirza S/o Saifal by caste Khoso,
through Mr. Tahir Nisar Siddiqui,
Advocate.

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

Complainant: through Mr. Muhammad Ibrahim Lashari.

Date of Hearing: 02.02.2026.

Date of Order: 02.02.2026.

ORDER

Ali Haider 'Ada', J:- Through this application, the applicant seeks post-arrest bail in Crime No.79 of 2023 registered at Police Station Mouladad for offences punishable under Sections 302, 337-H(ii), 148 and 149, PPC. Before filing the present application, the applicant approached the learned trial Court; however, his bail application was dismissed vide order dated 21.02.2024.

2. Briefly stated, the prosecution's case is that on 20.11.2023, when the complainant party was travelling towards the place of occurrence, the accused persons, including the present applicant, allegedly encircled them. It is alleged that the accused Saddam Hussain fired from his TT pistol, which hit the deceased, resulting in his death. The present applicant, namely Mirza, is shown in the FIR to be armed with a pistol and alleged to have made aerial firing. The instant FIR was lodged on 01.12.2023.

3. Learned counsel for the applicant contends that, on a bare reading of the FIR, no specific role has been assigned to the

applicant in the commission of murder, except his alleged presence and aerial firing. He further submits that there is an unexplained delay in lodging the FIR. It is also an admitted position that there exists a longstanding enmity between the parties, and due to such blood feud, the applicant has been falsely implicated with mala fide intention. As he finally prays for confirmation of interim bail.

4. Conversely, learned counsel for the complainant submits that the offence falls within the prohibitory clause of Section 497, Cr.P.C., and that bail cannot be granted as a matter of routine. He concedes the existence of enmity between the parties but argues that enmity is a double-edged weapon. He further submits that compromise talks are presently underway between the parties and prays for dismissal of the bail application.

5. Learned Deputy Prosecutor General submits that although the FIR was registered on 01.12.2023, the police record reflects that information regarding the incident was conveyed to the police on 30.11.2023, and accordingly, post-mortem examination was also conducted on the same date. He further submits that the prosecution has not clearly explained where the dead body remained from 20.11.2023 till 30.11.2023. He concedes that although the offence falls within the prohibitory clause, the aforementioned discrepancies would be examined at the time of trial.

6. Heard learned counsel for the parties and perused the material available on record.

7. It is an admitted position that there exists enmity between the parties. At this stage, such enmity operates in favour of the accused as well, as held by the Honourable Supreme Court that previous enmity cuts both ways and provides a motive for false implication. On the grounds of previous enmity, the Honourable Apex Court has repeatedly held that bail may be granted. Reliance in this regard is

placed upon *Faheemullah v. The State* (2024 SCMR 43) and *Jahanzeb Khan v. Umer Zahid* (2022 SCMR 726).

8. Furthermore, there is an unexplained delay in the registration of the FIR. Although the incident is stated to have occurred on 20.11.2023, the FIR was lodged on 01.12.2023. The prosecution record suggests that the police was informed on 30.11.2023 and that the post-mortem examination was conducted on the same date. The prosecution has failed to satisfactorily explain where the dead body remained during this intervening period. Moreover, according to the post-mortem report, there is no mention of ante-mortem rigidity or rigor mortis. In light of Medical jurisprudence, when death is alleged to have occurred ten days before the post-mortem, the physical condition of the body should reflect corresponding post-mortem changes. Additionally, the role attributed to the present applicant in the FIR is limited to mere presence and aerial firing, whereas the specific and fatal role has been assigned to the co-accused Saddam Hussain. On the issue of delay in lodging the FIR, reliance is placed upon *Mazhar Ali v. The State* (2025 SCMR 318).

9. In view of the foregoing facts and circumstances, the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the applicant is entitled to the concession of bail. Accordingly, the interim pre-arrest bail earlier granted to the applicant is hereby confirmed, subject to the same terms and conditions.

JUDGE

S. Ashfaq,