

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Appln. No. 2538 of 2025

Applicant : Mushtaq through Mr. Mohammad Arshad
Langah, Advocate.

Respondent : The State, through Mr. Sharafuddin
Kanhar, A.P.G.

Date of order : 14.01.2026.

Date of order : 22.01.2026.

ORDER

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, the applicant Mushtaq Panhwar seeks post-arrest bail in Crime No.102/2025, registered at Police Station Memon Goth, Karachi, for the offences punishable under sections 147, 148, 149, 302, 324, 337-A(i), 337-F(i), 109 PPC read with section 114 PPC. Having been rejected his earlier post arrest bail application No. 2750 of 2025 by the learned Additional Sessions Judg-III Malir, Karachi, vide order dated 15.07.2025, hence this bail application for same concession.

2. Brief facts of the prosecution case, are that the complainant Haseena alleged that on 17.04.2025 at about 8:00 p.m., her son Muhammad Asif, along with his fellow labourers, namely Mehboob Alam Panhwar , Yaseen Panhwar, Khan Muhammad Panhwar, Muhammad Aslam Panhwar and Naeem son of Ayaz Muhammad, was travelling in a Suzuki vehicle bearing registration No. AL-7194 and they got down in front of Sachal Saramat Hotel, Main Road, Memon Goth, to have food. It is alleged that near the workshop of the present applicant, the accused persons emerged while being armed with sticks, batons, iron rods and axes and attacked the said persons with intent to kill. The FIR further reflects that Bilal son of Mushtaq and Yaseen son of Taj Muhammad struck Muhammad Asif on the head with axes, as a result whereof he sustained critical injuries; the other labourers were also beaten and injured; and the present applicant Mushtaq, along with Taj Muhammad, continuously instigated the assailants by raising slogans to the effect of "Kill them". It is further alleged that Muhammad Asif was shifted to Government Hospital Memon Goth and thereafter to Jinnah Hospital, Karachi, where he succumbed to his injuries during treatment on 28.04.2025.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated; that no direct injury has been attributed to him; that the complainant was not present at the time of incident; that the FIR was lodged with delay; that the investigation has been completed and challan has been submitted; and that the complainant has filed an affidavit of no objection and learned counsel for the complainant has also consented for the grant of bail; therefore, the applicant deserves the concession of bail.

4. Conversely, learned DPG contends that the applicant is specifically nominated in the FIR; that his role as instigator is substantive and cannot be termed as a minor role; that the incident resulted in death of a person and thus falls within the prohibitory clause of section 497 Cr.P.C.; hence, no case for bail is made out.

5. Learned counsel for the complainant stated that the complainant has filed an affidavit of no objection, and on that basis, he has no objection if bail is granted to the applicant.

6. Heard. Record perused.

7. Perusal of the record reflects that the applicant is specifically nominated in the FIR, and the allegation against him is not of a peripheral nature, as he is attributed the role of instigation during the occurrence by repeatedly enticing the assailants through words to the effect of "Kill them", while the offence is alleged to have been committed by an unlawful assembly armed with deadly weapons, culminating in the death of the complainant's son. Prima facie, the allegation of instigation at the scene, if proved, has legal consequences inasmuch as it may attract vicarious liability in terms of the common object of the unlawful assembly, therefore, at this stage, the role attributed to the applicant cannot be brushed aside merely on the ground that he is not assigned the direct act of causing the fatal injury.

8. So far as the affidavit of no objection filed by the complainant, and the statement of learned counsel for the complainant consenting to bail on that basis, are concerned, it may be observed that the offence in question includes section 302 PPC, involving loss of a precious human life, and is not to be treated as a matter purely private in nature for the purpose of bail. Bail is to be examined on the touchstone of section 497 Cr.P.C., and not merely on the basis of subsequent no objection.

9. In view of the above, at this stage, on my tentative assessment, the material available on, connect the applicant with the commission of the

alleged offence, and the case does not, prima facie, fall within the ambit of further inquiry, therefore, the applicant has failed to make out a case for grant of post arrest bail. Resultantly, this Criminal Bail Application is dismissed.

The observations made hereinabove are tentative in nature and shall not prejudice the merits of the case during trial.

JUDGE

Shabir/PS