

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S-1248 of 2025

Applicant : Arbelo s/o Mukhtiar Ahmed, Kosh
Through M/s Shahid Ali Memon & Rizwana Perveen
Memon, Advocates

The State : Through Mr. Imran Mubeen, Addl. P.G

Date of hearing : 19.02.2026

Date of order : 27.02.2026

ORDER

KHALID HUSSAIN SHAHANI, J. – Applicant Arbelo, seeks post-arrest bail in Crime No.71 of 2025, for offences under Sections 302, 311 and 34, Pakistan Penal Code, registered at Police Station Wasti Jiwan Shah, District Ghotki. His earlier attempts to obtain the same relief stood frustrated when the learned Additional Sessions Judge-II (Gender-Based Violence Court), Mirpur Mathelo, declined his bail pleas vide orders dated 25.10.2025 and 09.12.2025, hence the present application.

2. According to the F.I.R lodged by ASI Abdul Aziz Malhan, on 04.08.2025, while on nocturnal patrol duty, the complainant along with other police personnel, travelling in official vehicle SPN-804, reached village Rangpur near the applicant's residence. They allegedly heard gunfire emanating from inside the house, entered the premises at about 00:10 hours and, with the aid of solar lights, purportedly observed the applicant, armed with a pistol, standing alongside an unidentified co-accused near a woman. The applicant is alleged to have proclaimed that the woman, his wife, Mst. Allah Bachai daughter of Phagun Kosh, had become "Kari" with one Dost Ali, had besmirched his honor and that of her father, whereupon he is said to have fired upon her, causing two firearm injuries on her chest, resulting in her instantaneous death. The accused allegedly scaled the boundary wall and fled; the police party shifted the corpse to Taluka Hospital Ubauro for post-mortem examination and thereafter lodged the F.I.R on behalf of the State on 05.08.2025 at 1400 hours.

3. Learned counsel for the applicant contended that the prosecution is a contrived, police-driven case, concocted for extraneous considerations and to artificially enhance the perceived performance of the patrolling party. He argued that, on their own showing, the fully armed and numerically superior police party did not make the slightest attempt either to shield the deceased from harm or to fire even a single shot to arrest or disable the assailants, conduct which is conspicuously inconsistent with ordinary human behavior and irreconcilable with their legal and official obligations. He further urged that there is an unexplained delay of approximately 14 hours in the lodging of the F.I.R, although the distance between the locus in quo and the police station is merely 6–7 kilometers; that all cited eyewitnesses are police officials, with no independent person from the locality associated; that the weapon allegedly recovered from the applicant has been foisted upon him and was transmitted to the Forensic Science Laboratory along with the empties purportedly recovered from the crime scene, thereby placing the sanctity of the ballistic report under a serious cloud, to be scrutinized at trial; that the real legal heirs, namely the parents of the deceased, Phagun and Mst. Hameeda, neither set the law in motion nor supported the prosecution but instead have sworn no-objection affidavits before the trial Court asserting that the applicant is innocent and they have no objection if bail is granted; and that the ocular and medical versions are not in perfect and unqualified consonance. On these premises, he submitted that the case is squarely covered by the principle of *further enquiry* within the contemplation of Section 497(2) Cr.P.C, entitling the applicant to bail.

4. Conversely, learned Additional Prosecutor General vehemently opposed the application, arguing that the applicant is specifically nominated in the F.I.R with a clear and unambiguous role of having fired upon and slain his own wife on the pretext of *Siyah Kari*; that the medical evidence, depicting two through-and-through firearm wounds on the chest of the deceased, substantially corroborates the ocular account; that the presence of the police party at the scene

is admitted and their statements under Section 161 Cr.P.C reinforce the F.I.R version; and that the case plainly attracts the prohibitory clause of Section 497(1) Cr.P.C. He further submitted that an alleged honor-killing attracts Section 311, P.P.C, and, in the post-2016 statutory regime, such offences have been rendered non-compoundable, with the result that no-objection affidavits by the legal heirs do not, by themselves, absolve the accused of criminal liability.

5. I have heard learned counsel for the parties and perused the available record. At the bail stage, the Court is confined to a tentative and prima facie appraisal of the material and is not permitted to embark upon a roving or penetrating evaluation of the evidence, a principle now firmly embedded in the jurisprudence governing bail under Section 497 Cr.P.C.

6. It is not in dispute that offences under Sections 302 and 311, P.P.C. are punishable with death or imprisonment for life and ordinarily fall within the prohibitory sweep of Section 497(1) Cr.P.C. Nonetheless, the august Supreme Court has repeatedly affirmed that even in such grave offences, bail may be granted where, upon tentative scrutiny, the case discloses features attracting the doctrine of “further inquiry” under Section 497(2) Cr.P.C, or where the prosecution edifice is surrounded by circumstances generating serious doubt at this incipient stage. The Court is enjoined to determine whether there exists *reasonable ground* for believing that the accused committed the offence or whether the material only provides *sufficient grounds for further inquiry into his guilt*, in which latter eventuality the concession of bail cannot be withheld as a form of pre-trial punishment.

7. In the present case, certain salient aspects of the prosecution narrative, when examined cumulatively, *prima facie* create space for such further inquiry. *Foremost*, the prosecution is entirely State-initiated, set in motion by a patrolling police officer; the real legal heirs of the deceased neither lodged the F.I.R nor, on the material so far produced, instituted any parallel

criminal proceedings against the applicant. On the contrary, both parents of the deceased have sworn affidavits, duly verified before the trial Court, exculpating the applicant and expressing no objection to his release on bail. While in alleged honor-killing cases the ultimate legal efficacy of such affidavits at trial may be circumscribed by the post-2016 statutory framework, their very existence at the pre-trial stage *prima facie* attenuates the alleged motive and casts doubt upon whether the occurrence transpired in the manner narrated by the police, particularly when the supposed *dishonor* pertained to the family of these very deponents.

8. *Secondly*, on the prosecution's own account, a fully armed patrolling party witnessed a defenseless woman being shot at close range inside a dwelling, yet there is no assertion that any member of the party fired even a warning shot, took a defensive or tactical position, or otherwise intervened either to avert the crime or to apprehend the culprits. There is likewise no allegation of hot pursuit, immediate chase or any attempt at interception through the official vehicle, despite the accused allegedly scaling the boundary wall and escaping into nearby fields. Such passivity by trained law-enforcement officers is, at the very least, atypical and inconsistent with ordinary standards of police conduct; if accepted, it raises grave questions about their discharge of duty, and if rejected, it casts a perceptible shadow over the credibility of the ocular account, which, at this stage, must be treated with circumspection and left to be fully tested at trial.

9. *Thirdly*, there is a delay of about 14 hours in the registration of the F.I.R, the incident having allegedly occurred at around 00:10 hours on 05.08.2025, whereas the F.I.R was recorded at 1400 hours the same day, despite the distance between the scene of occurrence and the police station being merely 6–7 kilometers. No cogent explanation has been furnished, at this stage, for such delay in a case where the complainant himself is a police officer equipped with institutional resources. Unexplained delay in lodging the crime report,

particularly where the case is styled as an *in-flagrante delict* honor-killing witnessed by a patrolling party, legally permits an inference of deliberation, consultation or embellishment, and thus tilts the balance towards further inquiry at the bail stage, especially when read in conjunction with other doubt-creating circumstances recognized in case law concerning delayed F.I.Rs.

10. *Fourthly*, the empties allegedly secured from the crime scene were dispatched to the Forensic Science Laboratory together with the weapon purportedly recovered from the applicant on 06.08.2025, thereby rendering it a live issue for trial whether the ballistic opinion in this respect carries any probative sanctity. There is also nothing on record, at this preliminary juncture, to suggest that the purported motive of “*Kari*” had been previously reported to the authorities, ventilated in the locality, or communicated to the parents of the deceased prior to the occurrence. This omission further weakens the prosecution’s asserted motive of an honor-killing and leaves open the possibility that the episode may have been some other occurrence subsequently projected as an honor-killing.

11. *Fifthly*, the entire ocular structure presently rests solely on the statements of police officials who, in substance, are both the complainant and his fellow patrolling officers; no independent villager has been cited as an eyewitness. While police officials are, in law, competent witnesses whose testimony cannot be discarded merely for want of civilian corroboration, it is equally settled that where the complainant party and investigating machinery are themselves the exclusive narrators of the incident, their evidence must be scrutinized with caution, particularly when other surrounding circumstances already engender doubt. In such a situation, at this nascent stage, their status as the only ocular source, without independent support, contributes to the domain of further inquiry rather than extinguishing it.

12. As regards the medical evidence, it does reflect two through-and-through firearm injuries on the chest of the deceased, which

broadly accords with the allegation that a firearm was used. However, medical evidence is ordinarily corroborative in nature and does not, by itself, fix identity of the assailant. Where, as here, the ocular account is entangled in material doubts arising from delayed F.I.R, unusual police conduct, contested weapon recovery and the non-support of the real legal heirs, the medical evidence cannot, at the bail stage, be accorded a determinative or conclusive role against the applicant.

13. The cumulative effect of the foregoing considerations is that, without engaging in a microscopic dissection of the record, the prosecution case against the applicant does not, at this tentative stage, emerge as free from reasonable doubt. The convergence of factors, namely: the purely State-driven nature of the prosecution and lack of support from the real legal heirs; the atypical and unexplained conduct of the patrolling party; the unexplained 14-hour delay in registration of the F.I.R despite the short distance; the disputed recovery of the alleged weapon of offence and non-arrest of the unidentified co-accused; and the exclusively police-based ocular account devoid of independent civilian corroboration, collectively bring the matter within the ambit of “*further inquiry*” as envisaged by Section 497(2) Cr.P.C.

14. The Supreme Court has elucidated that the doctrine of “*further inquiry*” under Section 497(2) Cr.P.C comes into play where, on a notional and exploratory assessment, the material on record gives rise to doubt regarding the involvement of the accused, and that, in such circumstances, particularly at the inception of proceedings, the concession of bail cannot be refused merely on account of the gravity of the charge, which is not to be employed as a punitive justification for pre-trial incarceration. It has further been emphasized that the grant of bail in such situations does not amount to an acquittal, but simply ensures that a person whose guilt remains unproven is not subjected to prolonged detention when the prosecution case itself is not free from reasonable doubt at the threshold.

15. In view of the foregoing discussion, and strictly without entering into the merits of the case, I am persuaded to hold that the present matter falls within the purview of "*further inquiry*" within the meaning of Section 497(2) Cr.P.C. The applicant is, therefore, entitled to the concession of bail.

16. Resultantly, this Criminal Bail Application is allowed. The applicant, Arbelo, is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.500,000/- (Rupees five hundred thousand only) and a personal bond in the like amount to the satisfaction of the learned trial Court.

17. The learned trial Court is, however, directed to proceed with the trial with due expedition and to make an earnest endeavor to conclude the same, preferably within a period of four (04) months from the date of receipt of this order, without in any manner being influenced by the tentative observations recorded herein.

18. It is clarified that all observations made above are purely tentative and confined to the adjudication of this bail application. They shall not prejudice either party, nor shall they fetter or influence the learned trial Court, which shall decide the case strictly on the basis of the evidence adduced before it and in accordance with law.

J U D G E