

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

CrI. Bail Appln. No. S-1211 of 2025

Applicant : Maqbool Ahmed s/o Shaman, Khuwaja
Through Mr. Atta Hussain Chandio, Advocate

Complainant : Muneer Muhammad s/o Ali Nawaz, Khuwaja
Mr. Ghulam Mujtaba Jakhar, Advocate holding
brief for Mr. Gulshan Ahmed Shujrah, Advocate

The State : *Through* Mr. Muhammad Raza Katohar, DPG

Date of hearing : 19.02.2026
Date of short order : 19.02.2026
Reasons recorded on : 20.02.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Maqbool Ahmed, seeks the beneficium of post-arrest bail in relation to Crime No.59 of 2025, *ex facie* invoking offences under Sections 302, 114, 148, 149, and 403 of the Pakistan Penal Code, 1860, registered at Police Station Pir Jo Goth, District Khairpur. His anterior plea for bail having been negated by the learned Additional Sessions Judge-I (MCTC), Khairpur, vide order dated 03.11.2025, he has now invoked the extraordinary jurisdiction of this Court under Section 497 Cr.P.C.

2. The gravamen of the accusation, as encapsulated in FIR No.59 of 2025 lodged on 02.06.2025, is that on 01.06.2025, at about 0300 hours, the complainant, accompanied by his father and cousins, en route from their native village Wada Khuwaja to Khairpur, were intercepted near Fazal Kanhar by six ostensibly armed assailants and two unidentified accomplices in a white automobile. The named accused, acting in concert and in furtherance of a common unlawful object, allegedly fired upon the complainant's father, Ali Nawaz, inflicting multiple firearm injuries upon vital parts of his body, culminating in instantaneous death. The assailants purportedly deprived the complainant party of a mobile phone, resorted to aerial firing to terrorize, and then absconded from the

locus *in quo*. Formal proceedings following the post-mortem culminated in registration of the present crime report qua the co-accused under the aforementioned provisions.

3. Learned counsel for the applicant has strenuously contended that the applicant's nomenclature is conspicuously absent in the original version of the incident and that his later nomination, surfacing only after a hiatus of twenty-one days, *ex facie* erodes the veracity of the prosecution narrative. It has been urged that both parties belong to the same caste, the *Khuwaja biradari* and thus, the possibility of *inter se factionalis animus* cannot be ruled out. The belated supplementary statement, bereft of any contemporaneous corroboration or identification parade, merely furnishes omnibus imputations against the applicant. Counsel further stressed that the ocular witnesses are admittedly close kith of the deceased and, therefore, their testimony must be evaluated *cum grano salis*. The unexplained delay of nearly a day in the lodging of FIR, when the police station lay within easy reach, reasonably suggests an element of afterthought and deliberation. Furthermore, the applicant's clean antecedents and absence of any incriminatory recovery eloquently demonstrate his probable innocence. In summation, counsel prayed for the application of the statutory principle of *further inquiry* embodied in Section 497(2) Cr.P.C.

4. *Contra*, the learned Deputy Prosecutor General, ably assisted by learned counsel for the complainant, opposed the concession of bail on the premise that the applicant stands duly inculpated through statements under Section 161 Cr.P.C, in an offence of the gravest magnitude, one attracting the capital penalty. It was canvassed that *prima facie*, sufficient incriminatory material exists to connect the applicant with the occurrence, thus warranting denial of bail under the prohibitory clause of Section 497

Cr.P.C. The alleged delay in the FIR, they contended, stood duly rationalized *ex visceribus actus*, whereas assertions of false implication and caste bias traverse into the realm of evidentiary appreciation, an exercise proscribed at the interlocutory stage. To grant bail at this juncture, it was argued, would constitute an affront to the administration of criminal justice.

5. Upon *ad verbum* appreciation of the record, it is manifest that the applicant's name was conspicuously non-existent in the original FIR and was introduced subsequently, vide statement dated 23.06.2025, without any attribution of an overt act *qua* the principal occurrence. By now, it is *trite juris* that a belated supplementary statement devoid of plausible explanation carries no independent probative worth, as enunciated *inter alia* in *Abid Ali alias Ali v. The State* (2011 SCMR 161). The complainant has not delineated the source of information nor adumbrated the circumstances in which the applicant allegedly became known to him. The thematic nucleus of the FIR revolves around six named aggressors, and the subsequent interpolation of the present applicant appears to rest upon speculative association premised on caste affinity, a consideration *ipso facto* infirm in law. When viewed *holistically*, the cumulative effect of the delayed nomination, belated introduction of the applicant, absence of specific attribution, and pre-existing enmity *inter se* tends to dilute, if not altogether dislodge, the prosecutorial edifice to the extent of the present applicant. The point of his participatory intent or *mens rea*, if any, remains a matter *sub judice* before the trial court, necessitating evidence-based adjudication.

6. *Ex hypothesi*, therefore, the applicant appears to have succeeded in bringing his case within the ambit of *further inquiry* under Section 497(2), Cr.P.C. Accordingly, by short order dated 19.02.2026, the applicant was admitted to post-arrest bail upon furnishing a solvent surety in the sum

of Rs.300,000/- (Rupees Three Hundred Thousand only) together with a P.R bond in the like amount to the satisfaction of the learned trial court. These constitute the detailed reasons in elucidation of the said order.

7. Before parting, it is expedient to reiterate that the observations made herein are merely *tentative, ex natura rei*, confined solely to the determination of the present bail application, and shall not, directly or indirectly, prejudice or circumscribe the learned trial court in its independent adjudication of the matter *inter partes* on the basis of evidence adduced before it.

J U D G E