IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S – 1182 of 2025

Applicant	:	Muhammad Arif Anwar @ Arif s/o Anwar Ali *Through* Mr. Irshad Ali Soomro, Advocate
The State	:	*Through* Mr. Mansoor Ahmed Shaikh, DPG
Date of hearing	:	26.02.2026
Date of Short order	:	26.02.2026
Reasons recorded on	:	02.03.2026

O R D E R

KHALID HUSSAIN SHAHANI, J.— Applicant, Muhammad Arif Anwar @ Arif, seeks the concession of post-arrest bail in case FIR No.103 of 2025, for offences under Sections 302 and 34, Pakistan Penal Code, 1860, registered at Police Station A-Section, Ghotki. His previous post-arrest bail pleas stood declined by the learned Additional Sessions Judge-II, Ghotki, vide orders dated 28.04.2025, 07.07.2025 and 10.10.2025.

2. Succinctly, the prosecution narrative is that complainant Muhammad Usman Rajput lodged the aforesaid FIR on 08.04.2025 at 1800 hours, asserting that on 06.04.2025 at about 2135 hours he received intimation that the dead body of his younger brother, Muhammad Ahmed was lying on Qadirpur Road near Sindhi Main Primary School, Ghotki, with his throat slit by a sharp cutting instrument. The deceased, employed as a salesman in a company at Lahore, was allegedly brought to Ghotki on 16.03.2025 by accused Shah Meer Rajput for work, where he resided along with the present applicant and one unknown person. The complainant avers that on 03.04.2025 the deceased demanded money from him, whereupon an amount of Rs.1,600/- was transmitted through Easy Paisa. Upon receipt of the information about the death, the

complainant, his brother Muzafar and friend Muhammad Tayyab reached Ghotki, saw and identified the corpse at Taluka Hospital Ghotki after post-mortem and noticed that the neck had been severed with a sharp-edged weapon. On this premise, it was alleged that accused Shah Meer Rajput and the applicant, acting in concert and after prior consultation, for undisclosed reasons committed the *qatl-i-amd* of the deceased by cutting his throat and thereafter absconded, culminating in registration of the present FIR under Sections 302 and 34 PPC.

3. Learned counsel for the applicant canvassed that the applicant is blameless and stands implicated on account of matrimonial ill-will. He argued that there is a delay of almost two days in the lodgment of the FIR which, even on the prosecution's own showing, is not free from doubt and, at the very least, furnishes ample room for deliberation and embroidery. The occurrence, it was emphasized, is an unseen one; no ocular account has been cited in the FIR nor procured during investigation, and the entire case is erected upon suspicion premised on alleged residence of the deceased with the accused. Learned counsel further submitted that the deceased had come to Ghotki of his own volition and had been living there, which circumstance renders the prosecution version inherently doubtful. No incriminating recovery, it was stressed, has been affected from the person or exclusive possession of the applicant; the purported sharp cutting weapon was lifted from the scene of crime and not at the instance of the applicant. The applicant is stated to be bereft of previous criminal antecedents and is the sole breadwinner of his family. It was lastly urged that subsequent to submission of the report under Section 173 Cr.P.C, no fresh inculpatory material has seen the light of day; hence, the case, at the highest, falls within the ambit of further enquiry envisaged by Section 497(2) Cr.P.C, entitling the applicant to bail as of right.

4. Conversely, learned Deputy Prosecutor General vehemently opposed the petition, contending that the applicant is specifically nominated in the FIR in a charge of heinous murder under Sections 302 and 34 PPC, punishable with death or imprisonment for life, thereby attracting the prohibitory clause contained in Section 497(1) Cr.P.C. It was urged that notwithstanding the occurrence being unseen, circumstantial material, including recovery of a sharp-cutting substance from the locus in quo and the medical evidence establishing homicidal death, prima facie connects the applicant with the crime. The delay in registration of the FIR, according to learned DPG, stands adequately explained by the complainant's late receipt of information and his subsequent travel to Ghotki. He further maintained that earlier bail applications of the applicant having been dismissed on merits, no new or compelling ground has now been advanced to justify a different view at this interlocutory stage. He, therefore, entreated for dismissal of the application.

5. Having heard the learned counsel for the parties and perused the material so far collected. It is a common ground that the incident is an unseen occurrence; no eye-witness has been cited who claims to have seen the applicant inflicting any injury upon the deceased. The prosecution edifice, at this stage, rests essentially upon the alleged residential association of the deceased with the applicant and co-accused, which is, *ex facie,* a slender and suspicion-laden foundation for an inference of guilt at the bail stage.

6. The first salient feature that obtrudes is the delay in lodging the FIR. The occurrence is alleged to have taken place on 06.04.2025 at 2135 hours whereas the FIR was chalked out on 08.04.2025 at 1800 hours.

The explanation offered, though available on record, does not ipso facto dispel the possibility of consultation, deliberation and embroidery. The Supreme Court of Pakistan has time and again held that unexplained or inadequately explained delay in registration of the FIR, especially in an unseen occurrence and where parties are on inimical terms, constitutes a circumstance which seriously dents the spontaneity of the prosecution version and renders it suspect. In *Muhammad Ishaq v. The State* (2007 SCMR 108), the apex Court, dealing with an unseen occurrence tainted with unexplained delay in lodging the FIR, categorically held that such delay may legitimately be attributed to consultation and concoction and that, in such circumstances, the ocular or circumstantial edifice of the prosecution is to be viewed with serious reservations. In another authoritative pronouncement reported as (PLJ 2008 SC 269), the Supreme Court reiterated that substantial delay in FIR, when not convincingly explained, affords adequate latitude for false implication and leads to an inference that the occurrence was, in fact, unwitnessed. While this Court cannot, at this stage, finally adjudicate upon the effect of the delay, these binding pronouncements render the present case, prima facie, one requiring deeper probe, thus steering it towards the domain of "further inquiry" within the purview of Section 497(2) Cr.P.C.

7. Another conspicuous aspect is the total absence of any direct ocular account against the applicant. The medical evidence merely confirms the homicidal nature of death due to a sharp-edged weapon; it does not, by itself, connect the applicant with the infliction of the fatal injury. The alleged weapon was seized from the crime scene and not recovered at the instance of the applicant or from his exclusive possession, thereby seriously diminishing its probative force qua him at this stage.

There is no recovery of blood-stained clothes or any other incriminating article from the applicant. The Supreme Court has consistently held that mere nomination in the FIR, in the absence of independent, confidence-inspiring corroborative material such as credible last-seen evidence, recovery at the instance of the accused or other incriminating circumstances, is not, by itself, sufficient to non-suit an accused at the bail stage when the overall prosecution case is fraught with doubts and infirmities. In such like situations, the case squarely falls within the remit of further inquiry as contemplated by Section 497(2) Cr.P.C, and the benefit thereof cannot be withheld.

8. The jurisprudence of the apex Court on the concept of *"further inquiry"* is now well-entrenched. The Supreme Court has held in a catena of decisions that once, upon tentative appraisal, the case of an accused is found to be one of further inquiry, the bar of the first part of Section 497 Cr.P.C, ceases to operate and the accused earns the statutory right to bail under the second proviso. It has also been jealously guarded that bail is not to be utilized as a tool of anticipatory punishment nor is liberty to be curtailed on speculative or conjectural premises; rather, where the prosecution material does not, at this interlocutory stage, furnish reasonable grounds within Section 497(1) Cr.P.C but only raises a possibility of guilt requiring deeper probe, the Courts are enjoined to lean in favor of liberty. The superior Courts have thus consistently deprecated the practice of withholding bail in cases where the evidence is innocuous, primarily circumstantial and patently calls for further inquiry.

9. Cumulatively, the following features emerge: (i) the occurrence is concededly unseen; (ii) the FIR is lodged with a delay of nearly two days, which, in the attending circumstances and in light of

binding precedent, *prima facie* supplies time for deliberation and concoction; (iii) there is no direct ocular account against the applicant; (iv) no incriminating recovery has been effected from his person or exclusive possession; and (v) the prosecution case, as presently available, is essentially suspicion-oriented. When evaluated against the authoritative principles laid down by the Supreme Court on delay in FIR and the doctrine of further inquiry, these features inexorably bring the applicant's case within the fold of Section 497(2) Cr.P.C, thereby entitling him to the concession of bail.

10. Resultantly, the applicant/accused, Muhammad Arif Anwar alias Arif, has successfully carved out a case of post-arrest bail falling within the purview of further inquire, as envisaged by Section 497(2) Cr.P.C. The captioned criminal bail application was, therefore, allowed vide short order dated 26.02.2026, whereby the applicant was admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of Rs.300,000/- (Rupees three hundred thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court. These are the detailed reasons in support of that short order.

11. Before parting, it is explicitly observed that all observations made herein are purely tentative, confined to the adjudication of this bail application, and shall not prejudice or fetter the learned trial Court, which shall decide the case strictly on the basis of evidence adduced before it and in accordance with law.

J U D G E