

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Bail Application No.S-1290 of 2025

Applicant : Afzal @ Aju through Mr. Ghulam Mustafa Burdi, Advocate.

Respondent : The State through Ms. Rameshan Oad, Deputy Prosecutor General, Sindh.

Complainant : Asghar Ali through Mr. Mukesh Kumar, Advocate.

Date of hearing : 25.02.2026.

Date of Order : 25.02.2026.

ORDER.

RIAZAT ALI SAHAR, J:- Through instant bail application, the above named applicant/accused seeks post-arrest bail in Crime No.453/2024 registered at Police Station Sakrand, District Shaheed Benazirabad for the offence under sections 302-Q, 34 PPC. Earlier the bail plea of the applicant/accused was declined by the learned Additional Sessions Judge-VI, Sakrand vide order dated 30.04.2025.

2. Brief facts of the prosecution case, as stated by the complainant Asghar Ali in his FIR lodged on 30.09.2024 at about 1900 hours are that he alleged that his paternal uncle (Phuppa), namely Dodo Khan, aged about 35 years, who was serving as watchman at Government Boys Primary School, Village Esso Keerio, did not return home for lunch on 29.09.2024. Thereupon, the complainant along with two relatives namely Abdul Waheed Keerio and Rizwan Ahmed Keerio proceeded to the school at about 03:30 p.m. and found the deceased lying dead in the courtyard with two sharp-edged weapon injuries, one on the left shoulder and one on the neck. The dead body was shifted to Sakrand Hospital where postmortem was conducted. According to the complainant, while at the condolence gathering, he came to know that the deceased had

been murdered by the present applicant Afzal alias Ajju, co-accused Rano and one unknown person. On such information, the instant F.I.R. was registered and after investigation the applicant was arrested on 03.10.2024. Subsequently, on 10.10.2024, a knife allegedly stained with blood was shown to have been recovered at the instance of the applicant.

3. Learned counsel for the applicant contended that the alleged occurrence is an unseen incident and no ocular account has been furnished in the F.I.R. The applicant has been nominated on the basis of subsequent information allegedly received during a condolence gathering, but neither the source of such information has been disclosed nor any independent witness has been cited. He contended that there is delay of about 28 hours in lodging the F.I.R., which remains unexplained and reflects deliberation and consultation. He contended that the recovery of knife was effected after seven days of arrest and is doubtful in nature. He also contended that no specific role or attribution of injury has been assigned to the applicant despite two distinct injuries on the deceased. According to learned counsel, the case rests on general allegations coupled with admitted previous enmity, thus, falling within the ambit of further inquiry under Section 497 (2) Cr.P.C. He further contended that the applicant is a resident of the locality, has no previous criminal record and is not likely to abscond or tamper with prosecution evidence. He, therefore, prayed for grant of bail to the applicant.

4. Learned Deputy Prosecutor General, Sindh, opposed the bail application and contended that the applicant is specifically nominated in the F.I.R. along with co-accused persons for committing the murder of the deceased. She contended that during investigation a blood-stained knife was recovered at the instance of the applicant, which has been sent for chemical examination. According to her, the medical evidence corroborates the injuries described in the F.I.R. and the offence alleged is heinous in nature, punishable with death or imprisonment for life and squarely falls within the prohibitory clause

of Section 497 (1) Cr.P.C. Therefore, according to the learned D.P.G., the applicant is not entitled to the concession of bail.

5. In addition, learned counsel for the complainant vehemently opposed the bail application and adopted the arguments advanced by the learned D.P.G. He contended that the applicant is directly nominated in the F.I.R. and the recovery of crime weapon lends corroboration to the prosecution case. He further added that the delay in lodging the F.I.R. stands explained due to funeral and burial rites of the deceased and the offence being capital in nature, no case of further inquiry is made out, as such, the bail application merits dismissal.

6. I have given attentive consideration to the submissions advanced by the learned counsel for the parties and have also perused the material available on record with their able assistance.

7. Admittedly, the occurrence in question is an unseen incident and there is no last seen evidence has been collected by the Investigating Officer. The complainant is not an eye-witness to the occurrence and the F.I.R. itself reflects that the dead body of the deceased was found lying in the courtyard of the school. The nomination of the applicant has been made on the basis of information allegedly received at a condolence gathering; however, neither the name of the informer has been disclosed nor any independent witness has been cited who attributed the role to the applicant. Such source-based nomination without disclosure of its origin *prima facie* requires careful evaluation at bail stage. It is further an admitted position that the F.I.R. was lodged with delay of about 28 hours without plausible explanation. Although it has been stated that the complainant party remained busy in funeral rites, yet the fact remains that the dead body was shifted to hospital and postmortem was conducted with police assistance. Thus, the matter had already come to the notice of police. The delay though not fatal per-se in the peculiar facts of this unseen case assumes significance and *prima facie* suggests deliberation and consultation before nomination of accused persons.

8. Another important aspect is that the deceased sustained two sharp-edged injuries, yet the F.I.R. is silent regarding the specific role of the present applicant or attribution of any particular injury to him. The allegations are general in nature. It is settled principle of law that where no specific role is assigned and case calls for deeper appreciation of evidence, the matter falls within the ambit of further inquiry as envisaged under Section 497(2) Cr.P.C.

9. So far as the recovery of knife is concerned, the record reflects that the applicant was arrested on 03.10.2024 whereas the alleged recovery was effected on 10.10.2024, after a delay of seven days of his arrest. The recovery is stated to have been made from beneath/underground (pacca land), which by its very nature is unbelievable without recording evidence. *Prima facie*, even if it is presumed that the recovery was effected from the pointed place, it does not appeal to the prudent mind how the culprit who commits a murder of human would conceal near to the place of incident which is “pacca land” instead of carrying away the same at the spur of moment. The admitted position of previous enmity between the parties also cannot be overlooked. While enmity may provide motive, it is equally a double-edged weapon and may furnish ground for false implication. In cases of unseen occurrences coupled with previous hostility, courts are required to exercise greater caution at bail stage.

10. Furthermore, the applicant is behind the bar since 03.10.2024 (more than one year) and the record reflects that although charge has been framed, the prosecution has not proceeded with recording of evidence with due promptitude. Prolonged incarceration before conclusion of trial offends the spirit of criminal jurisprudence, particularly when the case calls for further inquiry. At bail stage, deeper appreciation of evidence is not permissible. The Court is only required to tentatively assess whether reasonable grounds exist to believe that the accused is guilty of an offence punishable with death or imprisonment for life. In the present case, the cumulative effect of circumstances, unseen occurrence, delayed F.I.R. nomination based on undisclosed source, absence of specific role, delayed recovery and admitted enmity, creates doubt which

calls for further inquiry within the meaning of Section 497 (2) Cr.P.C.

11. The Honourable Supreme Court of Pakistan in case of AKHTAR v. KHWAS KHAN and another (2024 SCMR 476) has held that:

“6. It is a well settled notion of law that further inquiry is a question which must have some nexus with the result of the case for which a tentative assessment of the material on record is to be considered for reaching a just conclusion. It pre-supposes the tentative assessment which may create doubt with respect to the involvement of the accused in the crime. The law of bails is not a stagnant law but is developing with the exigencies of time. The expression "reasonable grounds" as contained under section 497, Cr.P.C., necessitated the prosecution to show that it is in possession of sufficient material or evidence to demonstrate that accused had committed an offence falling within the prohibitory limb of section 497, Cr.P.C. However for seeking the concession of bail, the accused person has to show that the material or evidence collected during investigation against him creates reasonable doubt or suspicion in the prosecution case. While deciding bail applications, it is the foremost duty of the Courts to apply a judicious mind tentatively for reaching the just and proper conclusion regarding whether reasonable grounds are made out or not to enlarge the accused on bail, and the expression 'reasonable grounds' signifies and corresponds to the grounds which are legally rational, acceptable in evidence and attractive to the judicial mind, as opposed to being imaginative, fallacious and/or presumptuous. Whenever reasonable doubt ascends with regard to the involvement of an accused person in the crime or about the certainty or probability of the prosecution case and the evidence proposed to be produced in support of the charge in Court during trial, the accused should not be deprived of the benefit of bail and it would be better to keep him on bail than in jail. The basic idea is to enable the accused to answer the criminal prosecution against him rather than to make him rot behind bars. The accused is entitled to expeditious access to justice, which includes the right to a fair and expeditious trial without any unreasonable or inordinate delay. Certain basic principles regarding grant or refusal of bail are settled i.e. that bail cannot be withheld as punishment; every person is presumed to be innocent unless found guilty by a competent court; every person is entitled to a fair trial, which includes a trial without inordinate delay; and that the basic philosophy of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and this principle applies at all stages including the pre-trial stage, and even at the time of deciding whether the accused is entitled to bail or not.”

12. For what has been discussed above, I am of the considered view that the applicant has made out a case for grant of post-arrest bail. Consequently, the bail application is **allowed**. The applicant/accused is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of learned trial Court. These are the reasons for my short order dated 25.02.2026.

13. Instant criminal bail application stands **allowed**.

14. Let a copy of this order be transmitted to the trial Court for information.

JUDGE

Abdullah Channa/PS