

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

Criminal Bail Application No.S-80 of 2026

Applicant : Muhammad Hassan through Mr. Altaf Sachal Awan, Advocate.

Respondent : The State through Ms. Rameshan Oad, D.P.G. Sindh.

Complainant : Muhammad Moosa present in person.

Date of hearing : 25.02.2026.

Date of Order : 25.02.2026.

O R D E R.

RIAZAT ALI SAHAR, J:- Through instant bail application, the above named applicant/accused seeks pre-arrest bail in Crime No.106/2024 registered at Police Station Badin, District Badin for the offence under sections 302, 324, 337-A (i), 114, 147, 148, 149, 504, 109, 34 PPC. Earlier the bail plea of the applicant/accused was declined by the learned 2nd Additional Sessions Judge, Badin vide order dated 10.12.2025.

2. Brief facts of the case are that the complainant, Muhammad Moosa, lodged FIR at Police Station Badin on 10.03.2024 at about 4:00 p.m., stating that on 09.03.2024 at about 5:00 p.m., upon hearing noise near Qazia Wah Stop, he and his nephew Allah Bux reached the spot and allegedly saw accused Shakil armed with pistol and present applicant Muhammad Hassan, Gul Muhammad @ Gul, Mahtab and Amjad @ Amjoo armed with lathis, abusing his son Javed Ali. It is alleged **that on the instigation of the present applicant**, co-accused Shakil fired a shot which hit Javed Ali on his thigh, who later succumbed to the injury at Indus Hospital Badin. The applicant is further alleged to have caused a lathi blow to Asghar Ali on the backside of

his head (attracting Section 337-A (i) PPC). After usual investigation, challan has been submitted before the competent Court.

3. Learned counsel for the applicant/accused contended that no specific overt act of causing fatal injury has been attributed to the applicant, as the firearm injury resulting in death is solely assigned to co-accused Shakil, who has already been granted post-arrest bail upon no-objection by the complainant. The allegation against the applicant is limited to instigation and a single lathi blow to injured Asghar Ali, whose injury falls under Section 337-A (i) PPC, a bailable offence. He contended that co-accused namely Mahtab and Amjad @ Amjoo have also been granted bail by this Court on identical allegations, thus, the case of the applicant stands on better footing under the rule of consistency. Learned counsel further contended that the applicant is a permanent resident, has no criminal antecedents and the case calls for further inquiry within the meaning of Section 497(2) Cr.P.C.

4. Learned Deputy Prosecutor General, Sindh opposed the bail application and submitted that the applicant is specifically nominated in the FIR with the allegation of instigation, which led to the firing upon the deceased. She further submitted that the offence falls within the prohibitory clause, carrying capital punishment and the role attributed to the applicant forms part of common intention/common object. She contended that the gravity of the offence and the manner of its commission disentitle the applicant from the extraordinary relief of pre-arrest bail.

5. The complainant, present in person, vehemently opposed the bail application and submitted that the applicant actively instigated co-accused to commit murder of his son and also caused injury to another son. He prayed for dismissal of the application.

6. I have anxiously considered the submissions advanced by learned counsel for the parties and have tentatively assessed the material available on record.

7. At bail stage, only a *prima facie* and tentative view of the evidence is required to be formed without entering into deeper appreciation, which is the exclusive domain of the trial Court. From the plain reading of the FIR, the specific allegation of causing the fatal firearm injury, which resulted in the death of Javed Ali, is attributed to co-accused Shakil. The present applicant is neither alleged to have been armed with a firearm nor attributed any direct act causing the death of the deceased. His alleged role is confined to instigation and causing a single lathi blow to injured Asghar Ali. The medical evidence shows that the injury attributed to the applicant falls under Section 337-A (i) PPC, which is admittedly a bailable offence and does not constitute a life-threatening injury. So far as the allegation of instigation is concerned, the same is a matter requiring deeper probe and appreciation of evidence during trial, particularly when no specific words of incitement have been imitated in the FIR nor is there any independent corroboration at this stage to conclusively establish common intention to commit murder. The question as to whether the applicant shared common object or intention with the principal accused is a matter which can only be determined after recording of evidence, as such, the case of the applicant calls for further inquiry within the meaning of Section 497 (2) Cr.P.C.

8. It is also an admitted position that co-accused Shakil, attributed with the principal role of firing the fatal shot, has already been granted post-arrest bail upon a no objection statement of the complainant. Furthermore, co-accused Mahtab and Amjad @ Amjoo, whose roles are similar in nature to that of the present applicant, have also been granted bail by this Court. The case of the present applicant, therefore, squarely falls within the ambit of the well-settled principle of consistency and denial of bail in such circumstances would amount to discriminatory treatment unless distinguishing features are pointed out, which

are conspicuously absent in the present matter. The applicant is a permanent resident of the locality, has no previous criminal record and there is nothing on record to indicate that he misused the concession of interim pre-arrest bail or attempted to influence the prosecution witnesses. Mere gravity of offence, though relevant, cannot by itself be a sole ground to withhold bail when the role attributed to the accused is further debatable and requires deeper scrutiny at trial. There is no material produced to show that there is apprehension of abscondence or tampering with the prosecution evidence. The case of the applicant falls within the scope of further inquiry in terms of subsection 2 of section 497 Cr.P.C.

9. In the case of **ABID v. The STATE and others (2016 SCMR 907)**, the Honourable Supreme Court of Pakistan has held that;

“4. We have heard the arguments of the learned counsel for the parties and have perused the record as well as the impugned order. The injuries attributed to the petitioner fall within the purview of sections 337-F (i) and 337-A (i) which are bailable. Since the co-accused of the petitioner, who had also been attributed firearm injuries, has already been allowed bail therefore, the case of the petitioner, being at par with that of his co-accused, also deserves the same treatment as such the petitioner is entitled to bail. Hence this petition is converted into appeal and allowed...”

10. Furthermore, mere abscondion cannot be made a ground to discard the relief sought for as disappearance of a person after the occurrence is but natural if he is involved in a murder case rightly or wrongly. The Honourable Supreme Court of Pakistan in case of **AKHTAR v. KHWAS KHAN and another (2024 SCMR 476)** has held that:

3. The learned counsel for the petitioner argued that no reasonable grounds exist to connect the petitioner with the commission of the offence. No such allegation was leveled by the complainant in the FIR against the petitioner, rather, later on, with consultation and deliberation, the petitioner was charged for the commission of the offence. It was further contended that neither anything was recovered from the petitioner, nor any specific role has been attributed to the accused, nor is there any eye-witness of the occurrence. He further argued that the investigation has been completed which itself revealed that the case was one of further inquiry. He further averred that the other

co-accused in the instant case have already been released on bail, hence the present accused is also entitled to the concession of bail on the rule of consistency.

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."

11. Furthermore, in the similar circumstances of the case to that of present case, the Honourable Supreme Court of Pakistan in the case of **Mst. ISHRAT BIBI v. The STATE** through

prosecutor General, Punjab and another (2024 SCMR 1528)

has granted bail to the accused whereby held that:

“11. The rule of consistency, or in other words, the doctrine of parity in criminal cases, including bail matters, recapitulates that where the incriminated and ascribed role to the accused is one and the same as that of the co-accused then the benefit extended to one accused should be extended to the co-accused also, on the principle that like cases should be treated alike, but after accurate evaluation and assessment of the co-offenders' role in the commission of the alleged offence. While applying the doctrine of parity in bail matters, the Court is obligated to concentrate on the constituents of the role assigned to the accused and then decide whether a case for the grant of bail on the standard of parity or rule of consistency is made out or not. In the case at hand, the petitioner has not been attributed any direct role of firing but she is allegedly a mastermind, who hatched the criminal conspiracy for the murder of her husband with other co-accused; she also abetted the offence allegedly; she acted with common intention in concert with other accused persons, etc. but it is a ground reality that the FIR was lodged against unknown persons, all the accused persons were implicated though supplementary statements of the complainant recorded one by one in different phases, and all the accused persons who were part of the criminal conspiracy, including the main accused who fired upon the deceased, have been granted bail, therefore at this stage, there appears no reasonable grounds for believing that the petitioner is guilty for the offence jotted down in the FIR, and in our tentative assessment, the petitioner has not only made out a case of further inquiry but she is also entitled to be enlarged on bail in view of the rule of consistency coupled with the benefit of the first proviso of Section 497, Cr.P.C.”

12. For what has been discussed above, instant criminal bail application is **allowed** and the interim pre-arrest bail earlier granted to the applicant/accused Muhammad Hassan is hereby confirmed on the same terms and conditions. These are the reasons for my short order dated 25.02.2026.

13. Criminal bail application **stands** allowed.

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

JUDGE