

**ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT
HYDERABAD**

Criminal Bail Applications No.S-45 of 2026

Applicants: Huzaifa and Hassan urf Dengi through Syed Mehboob Ali Shah, Advocate.

Respondent: The State through Mr. Khalid Hussain Lakho, Deputy Prosecutor General, Sindh.

Complainant: Shehbaz Ali through Mr. Safdar Ali Abro, Advocate.

Date of hearing: 11.03.2026.

Date of order: 11.03.2026.

ORDER

RIAZAT ALI SAHAR, J: - Through the instant application under Section 497 Cr.P.C., the applicants Huzaifa son of Muhammad Ashraf and Hassan urf Dengi son of Muhammad Ashraf seek their release on post-arrest bail in Crime No. 106/2025, registered at Police Station City, Hyderabad, for offences punishable under Sections 302, 34 PPC.

2. The allegations contained in the FIR, briefly, are that on 06.08.2025 at about 12:00/12:15 p.m., the complainant's brother Misum Abbas, aged about 16 years, along with others, arrived at Hotel *Sarak Pe Karak* on the request of certain accused persons for resolving an earlier dispute. It is alleged that during an altercation, all nominated accused allegedly took out weapons. It is specifically alleged that **co-accused Hassan alias Tutla fired a shot upon complainant, which hit Misum Abbas at the eyebrows of his right eye, resulting in his death.** The applicants are alleged to have been present at the spot and allegedly participated in the incident along with other co-accused.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to prior enmity. He contended that the fatal injury has been attributed specifically to co-accused Hassan alias Tutla, while no overt act causing injury has been assigned to the present applicants. It is also contended that the role of the applicants is based on general allegations of collective firing without any specific attribution. He further contended that the

investigation has been completed, challan has been submitted and the applicants are no longer required for investigation. He further contended that no recovery incriminating the applicants has been conclusively established at this stage and the alleged recovery is subject to proof at trial. Learned counsel further contended that the FIR reflects a prior dispute between the parties, which raises the possibility of false implication. He also contended that the incident allegedly occurred at a public place, yet no independent witness has been cited by the prosecution. It was also contended that there is contradiction between ocular account and medical evidence and that the allegations against the applicants fall within the ambit of further inquiry under Section 497 (2) Cr.P.C.

4. Conversely, learned Deputy Prosecutor General, Sindh opposed the grant of bail and supported the prosecution case. However, it was not disputed that the fatal shot has been attributed specifically to co-accused Hassan alias Tutla and that no specific injury is attributed to the present applicants. Learned counsel for the complainant added that the applicants, being members of the unlawful assembly, are equally liable for the murder of the deceased on the principle of vicarious liability.

5. I have heard learned counsel for the parties and perused the material available on record.

6. The record, *prima facie*, reflects that the **specific role of causing fatal injury has been attributed to co-accused Hassan alias Tutla**. The postmortem report also reveals a single firearm injury on the medial side of the left eyebrow, just above the eye of the deceased, which has been attributed to co-accused. The allegations against the present applicants are of general nature, alleging collective firing without attribution of any specific injury. Such general and omnibus allegations, without clear attribution of a specific overt act, *prima facie*, create an element of doubt which requires further inquiry within the meaning of Section 497 (2) Cr.P.C. It is yet to be determined at the trial as to whether the applicants/accused had shared common intention with the co-accused in committing the murder of deceased, causing firearm injuries to the deceased and they are vicariously liable for the occurrence.¹ It is also noteworthy that the occurrence allegedly took place at a public place, yet no independent witness has been associated by the

¹ BINYAMEEN v. The STATE through A.G. Khyber Pakhtunkhwa and another (2026 SCMR 99)

prosecution. The case mainly rests upon related witnesses, which will require careful scrutiny at the trial stage. Furthermore, the existence of prior enmity between the parties, as admitted by the complainant, also raises the possibility of over-implication, which cannot be ignored at this stage.

7. The applicants are behind bars; investigation has been completed and challan has been submitted. Their continued incarceration, when the trial has yet to commence and is likely to take time, would not serve any useful purpose. At the bail stage, a tentative assessment of the material is sufficient and deeper appreciation of evidence is not permissible.

8. For what has been discussed above, I am of the considered view that the applicants have made out a case for grant of post-arrest bail. Accordingly, through my short order dated **11.03.2026**, the applicants were admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) each and P.R. bond in the like amount to the satisfaction of the learned Additional Registrar of this Court. These are the reasons for the said short order.

9. It is clarified that observations made herein are tentative in nature and shall not prejudice the case of either party at trial. If the applicants misuse the concession of bail or abscond, the trial Court shall be at liberty to take appropriate action in accordance with law, including cancellation of bail.

10. Criminal bail application stands **allowed**.

JUDGE