IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.1516 of 2025

Applicant: Ali Asghar Dholo through Mr. Yaseen Khaskheli, Advocate.

Complainant: Zahid Hussain through Mr. Majid Ali Dayo, Advocate.

Respondent: The State through Ms. Rubina Qadir, Additional Prosecutor General Sindh.

Date of hearing: 28.04.2026

Date of order: 28.04.2026

ORDER

TASNEEM SULTANA, J :- Through this Criminal Bail Application, applicant Ali Asghar Dholo seeks pre-arrest bail arising out of Crime No.55 of 2025 registered under Sections 322, 279 & 427 PPC at P.S. Makli, District Thatta. Having been rejected his earlier Bail Application No. 345 of 2025 passed by learned Additional Sessions Judge-I / Model Criminal Trial Court, Thatta vide order dated 13.05.2025, hence this application for same concession.

2. That the brief facts of the prosecution case are that on 06.04.2025 at about 2100 hours complainant Zahid Hussain appeared at Police Station Makli and stated that his brother Rashid Hassan, aged about 22 years, was studying at LUMHS Makli. On 12.03.2025 his brother's friend Dushal took him on a motorcycle towards LUMHS Makli. Subsequently, the complainant came to know that both had been hit by a car and sustained injuries and were shifted to Civil Hospital Makli. On reaching the hospital, he found that Dushal had expired while his brother was seriously injured. Eyewitnesses Siraj Ahmed Memon and Naeem Memon informed him that at about 0915 hours near District Jail Thatta a white Alto car bearing registration No. DXT-685, coming from the opposite direction at high speed, hit the motorcycle and they identified its driver as Ali Asghar Dholo. The injured were shifted to hospital and later Rashid Hassan succumbed to injuries on 13.03.2025.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case; that there is inordinate and unexplained delay of about 26 days in lodging of the F.I.R.,

which renders the prosecution story doubtful; that although the applicant has been nominated, such nomination is based upon information allegedly furnished by the witnesses and not on the direct observation of the complainant, who is admittedly not an eye-witness of the occurrence; that the applicant neither drove the vehicle in a rash or negligent manner nor caused the alleged accident and some other vehicle had collided with the motorcycle, while the applicant, upon seeing the injured, stopped and shifted them to the hospital on humanitarian grounds; that the alleged eye-witnesses were not present at the spot and their statements have been procured subsequently; that no independent corroboration is forthcoming; that the learned Judicial Magistrate has deleted Section 322 PPC and taken cognizance under Section 320 PPC, which order has been maintained; that the applicant is a permanent resident, has no previous criminal record and there is no likelihood of his absconding; and that he has not misused the concession of interim pre-arrest bail; hence he is entitled to confirmation of bail.

4. Conversely, learned Additional Prosecutor General opposes the bail application and contends that the applicant has been specifically nominated in the F.I.R. and assigned a direct role; that the delay in lodging of the report has been explained in the F.I.R.; that the statements of the eye-witnesses, namely Siraj Ahmed Memon and Naeem Memon, implicate the applicant as driver of the offending vehicle; that the plea of false implication is without substance; that material collected during investigation connects the applicant with the occurrence; and that keeping in view the nature of allegation and the loss of two lives, the applicant does not deserve the concession of pre-arrest bail.

5. Heard. Record perused.

6. The allegation against the applicant is that he allegedly drove a vehicle bearing registration No. DXT-685 in a rash and negligent manner, as a result whereof two persons lost their lives. Admittedly, the F.I.R. was lodged with considerable delay of about 26 days, which prima facie provides room for deliberation and consultation.

7. Perusal of the record further shows that the complainant is not an eye-witness of the occurrence and his knowledge is based on information subsequently received. The prosecution has cited two witnesses, namely Siraj Ahmed Memon and Naeem Memon, who, in their statements recorded during investigation, have attributed the role of driving the vehicle to the

applicant, whereas the applicant has taken the plea that he did not cause the accident and had shifted the injured to the hospital. These competing assertions require determination by the trial Court after recording of evidence. In the circumstances, the case rests upon such material and, therefore, prima facie calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

8. The record reflects that the F.I.R. was initially registered under Sections 322, 279 and 427, P.P.C. and challan was also submitted accordingly. However, the learned Judicial Magistrate, after examining the material collected during investigation, vide order dated 12.06.2025 deleted Section 322, P.P.C. and took cognizance under Section 320, P.P.C., which order has been maintained by the competent Court. Thus, presently the case stands confined to offences under Sections 320, 279 and 427, P.P.C.

9. Before proceeding further, it would be advantageous to reproduce the relevant provision of law:

> "320. Punishment for Qatl-i-Khata by rash or negligent driving.— Whoever commits Qatl-i-Khata by rash or negligent driving shall, having regard to the facts and circumstances of the case, in addition to Diyat, be punished with imprisonment of either description for a term which may extend to ten years."

10. Admittedly, Section 320, P.P.C. is a bailable offence. After deletion of Section 322, P.P.C. by the learned Judicial Magistrate, which order has been maintained by this Court, the case of the prosecution now stands confined to offences under Sections 320, 279 and 427, P.P.C., which do not fall within the prohibitory clause of Section 497, Cr.P.C. It is well settled that where an offence does not fall within the prohibitory clause, grant of bail is a rule and refusal is an exception. Reliance in this regard can be placed on the cases of Tariq Bashir and others v. The State (PLD 1995 Supreme Court 34) and Zafar Iqbal v. Muhammad Anwar (2009 SCMR 1488).

11. It is also a settled principle of law that at bail stage deeper appreciation of evidence is not permissible and only tentative assessment of the material available on record is to be made, as held by the Hon'ble Supreme Court in *Muhammad Tanveer v. The State* (2017 SCMR 2060). Furthermore, the accused is only required to show that the material available creates reasonable doubt or calls for further inquiry, as held in ***Tariq Pervez v. The State*** **(2016 SCMR 18).**

12. The applicant is not shown to be a previous convict or hardened criminal. Moreover, he is not required for any further investigation nor has

the prosecution pointed out any exceptional circumstance which may justify denial of bail.

13. In view of the above facts and circumstances, the applicant has succeeded in making out a case of further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the instant bail application is allowed and interim pre arrest bail granted to the applicant Ali Asaghar vide order dated 05.06.2025 is confirmed on the same terms and conditions.

14. Needless to observe that any observation made hereinabove is tentative in nature and shall not influence the learned trial Court in deciding the case on merits. In case of misuse of concession of bail, the learned trial Court shall be at liberty to proceed in accordance with law.

JUDGE

Nadeem