

# IN THE HIGH COURT OF SINDH AT KARACHI

**Criminal Bail Application No. 739 of 2026**

**a/w**

**Criminal Bail Application No. 740 of 2026**

Applicant : Ghulam Qadir Naeemi  
[in both Cr. Bail Applications] son of Niaz Ahmed Rajput  
Through Mr. Zahid Farooq Mazari,  
advocate

Complainant : Muhammad Aslam  
son of Alauddin  
Through Mr. Abdul Haleem,  
advocate.

The State : The State:  
Through Mr. Muhammad Mohsin,  
A. P. G. Sindh.

Date of hearing : 10.06.2026.

Date of Order : 10.06.2026.

## ORDER

**Jan Ali Junejo, J:**-- Through Bail Application No.739/2026, applicant/accused seeks post-arrest bail in Crime No.08/2025 registered under Section 302/324/337-D/337-F(vi) PPC at PS Jherruck, after his bail plea has been declined by the Additional Sessions Judge/[MCTC], Thatta vide order dated 03.02.2026.

2. Briefly stated, the prosecution case, as reflected in the FIR, is that the complainant, a labourer residing at the address mentioned in Column No. 2, stated that his relative, Mushtaq son of Ali Muhammad Babber, owned ancestral land situated in Deh Tharri, Tappu Jherruk, a portion whereof had been rented out to Ghulam Qadir Punjabi for the installation of a Red Earth Plant. As certain rent remained outstanding, Mushtaq repeatedly demanded payment from Ghulam Qadir Punjabi, who eventually asked him to come to the plant on 02.02.2025 along with respectable persons of his caste to receive the amount. Accordingly, at about 3:00 p.m., Mushtaq

Babber, the complainant, his brother Yaseen Babber, Ghulam Nabi Babber, and Nadeem Babber arrived at the plant in a vehicle driven by Ghulam Nabi Babber. Upon their arrival, accused Ghulam Qadir Naeemi son of Niaz Ahmed Rajput, armed with a pistol, allegedly emerged from a room and, with the intention to kill, opened straight fire upon Mushtaq Babber, Yaseen Babber, and Ghulam Nabi Babber. As a result, Yaseen Babber sustained a firearm injury on the left side of his chest, while Mushtaq Babber received injuries on his left hand and chest, causing both to fall to the ground. The shot fired at Ghulam Nabi Babber missed its target and struck the earth. Taking advantage of the situation while the complainant and others attended to the injured, the accused fled towards the Jhampeer Link Road in a white Mehran car bearing registration No. BHF-649. The injured were immediately shifted for medical treatment; Yaseen Babber was taken to Civil Hospital Hyderabad, where he succumbed to his injuries, while Mushtaq Babber was initially taken to RHC Jherruk and thereafter referred to Civil Hospital Hyderabad and subsequently to the Trauma Centre, Karachi. Thereafter, the complainant, along with the dead body of Yaseen Babber, returned to RHC Jherruk for post-mortem proceedings. Upon receiving information regarding the death, the police completed the necessary formalities, and the Medical Legal Officer of RHC Jherruk sent the dead body to Civil Hospital Makli for post-mortem examination, hence this FIR.

3. Learned counsel for the applicant submits that the applicant is innocent, a first offender, a retired Naval Junior Commissioned Officer, and has been falsely implicated in the present case due to a land dispute and mala fide intentions of the complainant party, who allegedly seeks to grab the applicant's 08 acres of land along with the iron ore crushing plant. He contends that the FIR was lodged after an unexplained delay of about four hours despite the police station being situated nearby, which creates doubt regarding the

prosecution story. He further argues that the prosecution version is inherently improbable and contrary to the ordinary course of human conduct, as the alleged motive and manner of occurrence do not appeal to a prudent mind. Learned counsel submits that a counter-version in the shape of a direct private complaint is pending before the competent Court, wherein statements of witnesses have been recorded on oath, thereby rendering the case one of two conflicting versions requiring deeper appreciation of evidence at trial. He further contends that no specific motive has been attributed to the applicant; that there are material discrepancies regarding his alleged arrest, which is contradicted by contemporaneous media reports; that the statements of prosecution witnesses were recorded with considerable delay; that the inspection of the place of occurrence and recovery of crime empties were also delayed; and that all prosecution witnesses are closely related and interested witnesses belonging to the same community. Learned counsel further submits that the Investigating Officer failed to record the defence version, conducted a biased and defective investigation, and did not undertake necessary forensic examinations, including fingerprint analysis of the alleged weapon. He argues that the applicant was himself injured, his medical condition remains unsatisfactory, and medical reports indicate serious health issues requiring treatment. He further submits that the final challan has already been submitted, charge has been framed, and the applicant is no longer required for investigation. According to learned counsel, the impugned order was passed mechanically without proper consideration of the material available on record, including the counter-version and the authorities cited by the defence. He lastly contends that the applicant has remained incarcerated for a considerable period, there is no likelihood of absconding or tampering with the prosecution evidence, and the matter falls within the ambit of further inquiry under Section 497(2), Cr.P.C., entitling him to the concession of bail. In support of his arguments he relied upon case law reported in 2016

SCMR 18, 1972 SCMR 682, 2022 SCMR 547, 2020 SCMR 677, 1996 SCMR 1845, 2002 MLD 445, 1978 P.Cr.L.J 64, 1978 P.Cr.L.J, 80, 1978 P.Cr.L.J 71, 1978 P.Cr.L.J 481, 2013 SCMR 1415, NLR 1989 Cr. Lah 155, 2020 SCMR 971, 2020 SCMR 1049, 2010 SCMR 1049, 2010 SCMR 584, 2017 486 & PLD 1995 SC 34.

4. The learned counsel for the Complainant has argued that bail must be denied as the prosecution has established a prima facie case under Sections 302 of the PPC, backed by irrefutable evidence. He argues that the severity of the charges, punishable by death or life imprisonment, and the Applicant's potential to intimidate witnesses or endanger public safety. Additionally, he asserts that procedural objections, such as delays in FIR registration, hold no merit at this stage, as the prosecution has met the threshold of demonstrating guilt. He concludes that societal interest in preventing grave crimes, ensuring trial integrity, and deterring fugitive behavior necessitates the refusal of bail to keep the Applicant in custody until trial. Lastly, the learned counsel for the Complainant prayed for dismissal of bail of the Applicant.

5. The learned Assistant Prosecutor General opposes the bail application, advancing the following contra arguments: He argues that the Applicant is accused of committing heinous offenses under Sections 302 of the Pakistan Penal Code, which involve murder warranting strict judicial scrutiny. He further contends that substantial evidence, including witness statements establishes his involvement in the crime, making his bail unjustifiable. He maintains that the brutal nature of the act, resulting in the victim's death, demonstrates a clear common intention of violence. He emphasizes that granting bail poses a serious risk of absconding, tampering with evidence, or influencing witnesses, which could compromise the trial process. He submits that mere delay in trial proceedings does not justify bail, especially in a case of such grave

nature. He highlights that in similar cases, courts have consistently denied bail to prevent setting a precedent that undermines the justice system. Lastly, he prays for the dismissal of the bail applications of Applicant in the interest of justice.

6. I have given my anxious consideration to the submissions advanced by the learned counsel for the parties and have also minutely examined the material available on record. Tentatively assessing the case at this stage, it appears that the applicant has been nominated in the FIR with a specific and direct role of causing firearm injuries to the deceased Yaseen Babber and injured witness Mushtaq Babber. The FIR was lodged promptly after the occurrence, taking into account that the complainant and his companions remained occupied in shifting the injured persons to different hospitals for medical treatment and attending to the deceased. Therefore, the delay pointed out by the learned counsel for the applicant does not appear to be of such nature as would adversely affect the prosecution case at this stage. The ocular account furnished by the complainant is supported by the medical evidence available on record, which prima facie lends confidence to the prosecution version. It is a settled principle of law that where direct ocular evidence is available and is supported by medical evidence, deeper appreciation of evidence is not permissible while deciding a bail application.

7. The contention of the learned counsel for the applicant that the prosecution story is improbable, motivated by a land dispute, and that the complainant party intends to usurp the applicant's land and crushing plant, pertains to the defence version of the case. Likewise, the plea regarding pendency of a private complaint containing a counter-version and the assertion that the deceased was allegedly killed by someone from the complainant side are matters requiring recording of evidence and thorough examination during

trial. At the bail stage, the Court is not required to undertake a deeper scrutiny of disputed questions of fact or determine the truthfulness of rival versions. Such determination can only be made after the parties have led their evidence before the trial Court. The mere existence of a defence plea or a counter-version does not by itself render the prosecution case one of further inquiry when the accused is specifically nominated in the FIR and supported by ocular and medical evidence.

8. The arguments regarding delayed recording of statements under Section 161 Cr.P.C., delayed inspection of the place of occurrence, alleged defects in investigation, non-recording of the defence version, non-conduct of fingerprint examination, and discrepancies concerning the mode and place of arrest are all matters relating to the quality of investigation. It is by now a settled proposition of law that defects or irregularities in investigation by themselves do not entitle an accused to the concession of bail where sufficient incriminating material connecting him with the commission of the offence is otherwise available on record. Any lacuna, omission, or contradiction pointed out by the defence shall be subject to scrutiny during trial and cannot presently outweigh the direct accusation leveled against the applicant.

9. The plea that all prosecution witnesses are related or interested witnesses is also without substance at this stage. Mere relationship with the deceased is not sufficient to discard the testimony of witnesses, particularly when their presence at the place of occurrence is natural and has been explained in the FIR itself. The evidentiary value, credibility, and reliability of such witnesses can only be tested through cross-examination during trial and not at the bail stage.

10. The argument that the applicant is a first offender, a retired Naval officer, and has remained behind bars for a considerable

period also does not persuade this Court to extend the concession of bail. The offence alleged against the applicant falls within the prohibitory clause of Section 497, Cr.P.C., being punishable with death or imprisonment for life. In such cases, the rule of bail is subject to the existence of reasonable grounds for believing that the accused has committed the offence. The material available on record, at least tentatively, provides such reasonable grounds.

11. So far as the plea of further inquiry under Section 497(2), Cr.P.C. is concerned, I am unable to subscribe to the contention of the learned counsel for the applicant. The applicant has been assigned a specific role of making straight firearm shots resulting in the death of one person and injuries to another. The ocular account is supported by medical evidence and there is no apparent inconsistency between the two. Therefore, the case of the applicant does not fall within the ambit of further inquiry so as to entitle him to the concession of bail.

12. Coming to the medical ground, the record reflects that although the applicant is stated to be suffering from certain ailments, including Hepatitis-C, back pain, and other health-related issues, no material has been placed before this Court to demonstrate that such ailments cannot adequately be treated within the jail hospital or through referral to specialized government medical institutions. It is a settled principle that bail on medical grounds can only be granted where the illness is of such a serious nature that proper treatment is unavailable within the prison system or continued incarceration poses an imminent threat to the life of the accused. The medical reports relied upon by the applicant do not indicate any life-threatening condition requiring his release from custody. Rather, they show that the applicant is under medical supervision and is receiving treatment. In the case *Muhammad Arshad v. The State* reported **1997 SCMR 1275**, the Hon'ble Apex

Court has held that to grant bail on medical ground there must exist strong reason to believe that despite advanced medical technology, availability of medicines, the treatment and care of the accused was not possible in jail. The instant case is not such a case.

13. For what has been discussed above, I am of the tentative view that sufficient material exists on record connecting the applicant with the commission of the offence and the grounds urged by the defence call for deeper appreciation of evidence, which is beyond the scope of bail jurisdiction. Consequently, the applicant has failed to make out a case for grant of post-arrest bail. Accordingly, Bail Application No.739/2026 is dismissed.

14. So far as Cr. Bail Application No.740/2026 is concerned, the applicant/accused seeks post-arrest bail in Crime No.09/2025 registered under Sections 24 and 25 of the Sindh Arms Act at Police Station Jherruck, Thatta. The record reflects that the said case arises out of the same transaction and is an offshoot of the main case, wherein the applicant has been specifically nominated and assigned a direct role in the commission of the offence. Since this Court has found sufficient material connecting the applicant with the commission of the principal offence and has declined the concession of bail in the main case, no exceptional circumstance has been shown warranting a different view in the connected Arms Act case. Consequently, Cr. Bail Application No.740/2026 is also dismissed.

The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it.

These are the reasons of short order dated 10.06.2026.

**JUDGE**