

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-134 of 2026

Criminal Bail Application No. S-334 of 2026

Criminal Bail Application No. S-355 of 2026

Criminal Bail Application No. S-408 of 2026

Applicants: Bashir Ahmed alias Ali Dino and Munwar Ali (Munwar in FIR) through Mr. Samiullah Khan Rind, Advocate.

Ahsan Ali, through Mr. Azhar Ali Mazari, Advocate.

Akram Changar through Mr. Ghulam Raza, Advocate.

Complainant: Saindad through Mr. Aftab Hussain Shar, Advocate.

Respondent: The State, *through* Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General

Date of hearing : 10.07.2026
Date of short order : 10.07.2026.

ORDER

ARBAB ALI HAKRO, J.- Through the captioned criminal bail applications, the applicants/accused in Criminal Bail Applications No.134, 334 and 355 of 2026 seek pre-arrest bail, while the applicant/accused in Criminal Bail Application No.408 of 2026 seeks post-arrest bail in FIR No.170 of 2025, registered at Police Station Tando Masti Khan, District Khairpur, for offences punishable under Sections 302, 148 and 149, PPC. Their earlier bail applications were declined by the learned trial Court.

2. The crux of the prosecution case, in a nutshell, is that the complainant, Saindad, son of Bakhshan, lodged the FIR on 31.08.2025, alleging that his son, Waseem Ali, had entered into a love marriage on

17.01.2025 with Mst.Nabeela, d/o Muhammad Siddique Changar. It is stated that after the marriage, a faisla was held and the Changar community became annoyed. On the day of the incident, the complainant, along with his son Waseem Ali, cousin Himat Ali, son of Ghulam Rasool, and relative Rashid Ali, son of Shoukat Ali, proceeded to Wad Pagiya for business purposes on separate motorcycles. After completing their work, they returned from Wad Paghia Piri on separate motorcycles. At about 0900 hours, when they reached near Mang Jhalo, they saw and identified each of the accused persons, namely (1) Moula Bux, son of Muhammad Siddique, (2) Khair Muhammad, alias Parvez, (3) Akram, son of Imam Bux, (4) Bashir, son of Mumtaz, (5) Munawar, son of Muhammad Saleh, (6) Malhar, son of Fazal Muhammad, (7) Ihsan, son of Waryam, and (8) Nadeem, son of Rajib, all of caste Changar and residents of Siyal Mori, Taluka Khairpur, armed with pistols. The accused allegedly arrived on four motorcycles, intercepted the complainant party, and, due to fear, they stopped. The accused questioned Waseem Ali as to why he had performed nikah with their girl, and thereafter all the accused fired pistols at Waseem Ali, who fell to the ground. The complainant party raised cries, upon which several persons arrived at the place of incident, and the accused fled away on motorcycles towards the eastern side. The complainant states that his son sustained multiple firearm injuries, including Lateral aspect of left arm, medial aspect of left arm, right shoulder, right side of chin, right cheek, end of right eyebrow, lateral aspect of lower intercostals region of right side of chest, lateral aspect of right nipple, lateral aspect of right and left side of lower abdomen, lateral aspect of left iliac region, proximal part of left thigh, lateral aspect of left buttock region and medial aspect of left buttock region. Blood was oozing, and Waseem Ali succumbed to the injuries. The complainant arranged transport, brought the dead body to Police Station Economic Zone, obtained a letter for post-mortem, and then shifted the dead body to Civil Hospital Khairpur. After completion of post- mortem and funeral rituals, he appeared at the police station and lodged the FIR.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated in this case. It is urged

that co-accused Khair Muhammad alias Parvez, son of Paryal, Malhar and Nadeem alias Nida have already been granted pre-arrest bail, which has been confirmed by this Court at Sukkur on 13.02.2026, and the case of the present applicants/accused stands on an identical footing; therefore, they are entitled to the same relief on the touchstone of consistency. Learned counsel further argued that there is an inordinate and unexplained delay of thirteen hours in lodging the FIR, which prima facie casts doubt on the prosecution version. It is submitted that no specific role has been assigned to the present applicants/accused in the FIR; rather, general and omnibus allegations have been levelled. It is also contended that no independent witness has been cited and the prosecution witnesses mentioned in the FIR are close relatives of the complainant, thus interested and set-up witnesses. Learned counsel maintains that no useful purpose would be served by arresting the applicants/accused, who would only suffer humiliation and disgrace at the hands of the police. They accordingly pray for confirmation of the interim pre-arrest bail already granted to the applicants/accused.

4. Learned counsel for the applicant/accused, Akram Changar, has adopted the same arguments advanced by learned counsel for the other accused and further contended that the applicant/accused has been in jail since his arrest; his case is also on the same footing as that of co-accused who have been granted bail. He therefore prays for the grant of post-arrest bail. In support of their submissions, learned counsel relied upon the following case law: 2018 YLR 1655 (Sindh Hyderabad), 2021 SCMR 87 (Supreme Court), 2019 P.Cr.LJ Note 51 (Sindh Hyderabad), 2024 YLR 2847 (Lahore), 2018 YLR 1042 (Peshawar), 2019 P.Cr.LJ (Sindh Hyderabad), and 2019 MLD 1431 (Lahore).

5. Learned counsel for the complainant has fully opposed the grant of bail to the applicants/accused on the ground that they are nominated in the FIR and have allegedly committed the brutal murder of an

innocent person arising from a dispute over the deceased's marriage to a girl from their community. It is argued that the role attributed to the applicants/accused is direct and active, leaving no scope for the grant of bail in such a heinous offence. Learned counsel therefore prayed for the dismissal of all the bail applications. In support of his submissions, he relied on case law reported as 2003 SCMR 68, 2000 MLD 1046, 2011 YLR 2270, 2009 P.Cr.LJ 392, 2001 P.Cr.LJ 500, 2024 YLR 1404, 2025 YLR 279, 2020 SCMR 966, 1998 SCMR 1, and 2002 P.Cr.LJ 568.

6. The Learned Deputy Prosecutor General has opposed the bail applications, contending that the applicants/accused are specifically nominated in the FIR and that a clear and direct role is attributed to them, namely that they fired straight at the deceased Waseem Ali. It is argued that such a specific allegation of active participation in the commission of the offence of murder disentitles them to the concession of bail.

7. Heard arguments. Record perused.

8. On careful examination of the material on record, including the FIR, the post-mortem report, the statements of the complainant and the eye-witnesses recorded under Section 161 Cr. P.C, as well as the orders passed by the learned trial Court, it prima facie appears that the applicants/accused are not only specifically named in the FIR but are also attributed a clear, direct and active role in the commission of the offence. The complainant has categorically stated that on the fateful day, when the complainant party reached near Mang Jhalo, all the accused opened fire with a pistol on Waseem Ali, who fell to the ground, and that the deceased sustained multiple firearm injuries on different parts of the body and succumbed to such injuries at the spot. The allegation, thus, is not of mere presence or passive association; rather, it is of collective and active participation in a murderous assault, attracting the mischief of Sections 302, 148 and 149 PPC. At the bail stage, the Court is not required to conduct a deeper appreciation of evidence as at

the trial, yet it is obliged to assess whether, on the face of the record, the accusation is supported by a coherent ocular account, medical evidence and surrounding circumstances¹. In the present case, the ocular account furnished by the complainant and his companions is consistent, natural and in line with the medical evidence, which shows multiple firearm injuries on vital parts of the body, thereby lending prima facie support to the prosecution version.

9. The principal plank of the defence is the plea of false implication, the alleged general and omnibus allegations, and the asserted parity with co-accused Khair Muhammad alias Parvez, Malhar and Nadeem alias Nida, whose pre-arrest bail has been confirmed by this Court. However, the argument of parity does not commend itself for acceptance at this stage. The rule of consistency is not an inflexible doctrine; it applies only where the role, the evidence, and the attending circumstances of the accused seeking bail are truly identical to those of the co-accused already favoured with bail. Where the role is direct, active, and specific, and the accusation is supported by a straightforward ocular account, the Court is not bound to mechanically extend the concession of bail merely because some co-accused have been granted such relief, particularly when the order in favour of the co-accused may have been passed on different considerations or on a distinct factual matrix. In the present case, the FIR attributes to all the accused, including the present applicants, the role of making straight fire upon the deceased Waseem Ali, thereby ascribing to them a collective and simultaneous participation in the fatal assault. The case of the applicants/accused, therefore, cannot be said to be on a better or identical footing than that of any co-accused so as to invoke the rule of consistency in their favour, particularly when the offence alleged is an

¹ as held by the Supreme Court in 2024 SCMR 1576, where specific attribution of firing supported by medical evidence was considered sufficient to refuse bail. Likewise, in 2023 SCMR 1724, the Supreme Court refused bail where the accused was assigned a specific role of firing, holding that such attribution cannot be ignored at bail stage.

honour-based killing arising out of a love marriage, which, by its very nature, is attended by strong motive and communal hostility.

10. The contention regarding the thirteen-hour delay in lodging the FIR has also been invoked to cast doubt on the prosecution case. This argument, too, does not hold the field on its face. The FIR itself explains that after the incident, the complainant arranged transport, brought the dead body to the Police Station Economic Zone, obtained a letter for post-mortem, shifted the dead body to the Civil Hospital Khairpur, and only after completion of post-mortem and funeral rituals did he appear at the police station and lodge the FIR. In cases of homicide, particularly where the deceased is a close family member, some delay in lodging the FIR, occasioned by the immediate need to arrange medical aid, post-mortem and funeral rites, is not uncommon, and when reasonably explained, does not by itself render the prosecution story doubtful at the bail stage. The delay in the present case is thus not inordinate or unexplained; it is reasonably accounted for by the sequence of events narrated in the FIR. Moreover, the complainant has no apparent reason to falsely implicate the applicants/accused, who belong to the community of the girl with whom the deceased had contracted a love marriage, and the motive of communal displeasure and honour-based retaliation is clearly spelt out in the FIR. In such circumstances, the plea of false implication, unsupported by any tangible material indicating mala fide or ulterior motive on the part of the complainant or the police, cannot be accepted as a valid ground for bail.

11. The argument that the prosecution witnesses are related to the complainant and therefore interested and set up also does not advance the case of the applicants/accused at this stage. In our social milieu, it is often close relatives who accompany the deceased and are present at

the time of the occurrence; their relationship, by itself, does not render their testimony unreliable or fabricated. The law does not treat related witnesses as inherently untrustworthy; it only requires that their evidence be scrutinised with care. At the bail stage, where the Court is concerned with a tentative assessment, the mere fact that the eye-witnesses are related to the deceased does not justify discarding their consistent and natural account, particularly when it is supported by medical evidence and there is no material to suggest that they have any motive to falsely implicate the applicants/accused in a capital offence. The plea that no independent witness has been cited is also of little avail, as the incident is alleged to have occurred on a road near Mang Jhalo while the complainant party was returning from business, and the arrival of other persons at the scene is mentioned only after the firing and the fall of the deceased. The absence of independent witnesses, in such circumstances, is not unusual and does not, at this stage, create such doubt as would entitle the applicants/accused to bail.

12. As regards applications for pre-arrest bail, it is well settled that pre-arrest bail is an extraordinary relief, to be granted sparingly and only where the Court is satisfied that the intended arrest is actuated by mala fide, an ulterior motive, or is otherwise a misuse of the process of law. A mere allegation of false implication, without cogent material indicating mala fide on the part of the complainant or the investigating agency, is insufficient to justify the grant or confirmation of pre-arrest bail, particularly in offences punishable with death, where the accused are specifically named and assigned a direct role. In the present case, no material has been brought on record to show that the police are acting with mala fide or that the complainant has set the law in motion for any collateral purpose. On the contrary, the FIR discloses a strong motive, a

clear and direct allegation of collective firing, and a coherent sequence of events leading to the death of the complainant's son. Granting pre-arrest bail in such circumstances would amount to stifling a fair investigation and prematurely curtailing the police authority to arrest persons nominated in a capital offence who have a specific role. Similarly, in the case of applicant/accused Akram Changar, who seeks post-arrest bail, the alleged offence falls within the prohibitory clause of Section 497 Cr.P.C., being punishable with death, and the material on record does not, at this stage, bring his case within the ambit of further inquiry contemplated by the said provision. His continued detention, therefore, cannot be termed unjustified or oppressive at this stage of the proceedings.

13. In view of the foregoing discussion and bearing in mind the settled principles governing the grant of bail in offences punishable with death, this Court tentatively holds that, at this stage, the prosecution has collected sufficient material to connect the applicants/accused with the commission of the offence. The specific nomination of the applicants/accused in the FIR, the clear attribution of a direct and active role in firing upon the deceased, the presence of a strong and proximate motive arising out of the deceased's love marriage, the consistency between the ocular account and the medical evidence, the reasonably explained delay in lodging the FIR, and the absence of any demonstrable mala fide or ulterior motive on the part of the complainant or the police, cumulatively disentitle the applicants/accused to the concession of bail, whether pre-arrest or post-arrest. At this stage, any deeper appreciation of the evidence would not be permissible, and the Court must confine itself to a tentative assessment, which, on the material presently available, does not favour the applicants/accused.

14. Resultantly, all four criminal bail applications are hereby dismissed vide short order dated 10.07.2026. The interim pre-arrest bail earlier granted to the applicants/accused in Criminal Bail Applications Nos. S-134, S-334 and S-355 of 2026 is recalled. The learned trial Court is, however, directed to proceed with the case expeditiously and to decide it strictly in accordance with law.

15. Needless to say, the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the applicant's case on the merits.

Above are the reasons for short order dated 10.07.2026.

JUDGE

S.Nawaz(St)'