

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2472 of 2026

Applicant : Khair Muhammad son of Moosa
through M/s. Ashfaque Ali Panhwar
and Dilshad Ali, Advocates

Complainant : Muhammad Aslam son of
Muhammad Baksh through
Mr. Asad Ali Mughal, Advocate

The State : Through Ms. Najma Latif Golo,
Assistant Prosecutor General, Sindh

Date of hearing : 22.09.2026

Date of decision : 22.09.2026

ORDER

Jan Ali Junejo, J.- Through this Criminal Bail Application, Applicant-Khair Muhammad son of Moosa seeks post-arrest bail in FIR No.236 of 2025, registered under Sections 302/324/34, PPC at Police Station Manghopir, Karachi. Earlier, the Applicant's bail application was dismissed by the learned Additional District & Sessions Judge-II, Karachi West, *vide* Order dated 18.07.2026.

2. Briefly stated, the prosecution case, as set out in the FIR, is that the Complainant is the real brother of deceased Muhammad Akram. He recorded his statement under Section 154, Cr.P.C. The Complainant stated that he resides at the address mentioned in the FIR and earns his livelihood by cutting wood. On 20.03.2025, he and his real brother Muhammad Akram left their house on a motorcycle to purchase household articles from Noorani Stop. After making the purchase, while returning home, at about 15:30 hours, when they reached near the house of Waheed son of Moosa, they allegedly found Waheed son of Moosa, Gul Muhammad son of Moosa, Umar Pathan and two unknown persons standing there. It is further alleged that the said persons stopped the Complainant and the deceased, whereafter Waheed took out a pistol and, with the intention to kill them, fired directly at them. As a result of the firing, two bullets struck Muhammad Akram, who fell to the ground. The complainant managed to escape and ran towards his house. He informed his father and brothers, whereafter they returned to the place of occurrence and found Muhammad Akram lying there in an injured condition. Madadgar-15 was informed, and the injured was shifted through

an ambulance to Abbasi Shaheed Hospital. However, upon reaching the hospital, Muhammad Akram succumbed to his injuries. The police thereafter completed the necessary legal formalities, and the Complainant received the dead body for burial. The Complainant alleged that the nominated accused had fired upon his brother with a deadly weapon, causing his death, and requested legal action in accordance with law.

3. Learned Counsel for the Applicant contended that the Applicant is innocent and has been falsely implicated in the present case due to mala fide intention and for the purpose of blackmailing him. He emphasized that the Applicant was not nominated in the FIR, despite the fact that the Complainant claims to be an eyewitness of the occurrence and the FIR was lodged promptly after the incident. It was argued that the Complainant specifically nominated certain persons in the earliest version of the occurrence but did not mention the applicant at all. Learned Counsel further contended that the Applicant was subsequently introduced into the prosecution case through a statement recorded under Section 161, Cr.P.C., after an unexplained delay of approximately six months. According to learned Counsel, such an abnormal delay materially affects the credibility of the subsequent implication. It was further submitted that although the FIR was registered on 20.03.2025, even the interim challan submitted during investigation did not contain the name of the Applicant or assign any specific role to him. The Applicant's name surfaced for the first time in the final challan dated 13.11.2025. It was further argued that even in the final challan no specific role has been attributed to the applicant, nor is he alleged to have fired any shot at the deceased. No weapon or other incriminating article has been recovered from his possession. Learned Counsel also submitted that similarly placed co-accused, namely, Gul Muhammad son of Moosa and Hazrat Umar son of Rahmat Gul, had already been admitted to bail by the learned trial Court *vide* Orders dated 30.08.2025 and 31.07.2025, respectively. It was therefore contended that the principle of consistency also operates in favour of the Applicant. Learned counsel prayed for grant of post-arrest bail.

4. Conversely, learned Counsel for the Complainant as well as the learned Assistant Prosecutor General opposed the bail application. They submitted that the Applicant is involved in the brutal murder of the Complainant's brother and that he actively participated in the planning and commission of the offence along with the co-accused. It was contended that the accused persons intercepted the motorcycle carrying the Complainant and deceased and, pursuant to their common intention,

committed the murder. On these grounds, learned counsel prayed for dismissal of the bail application.

5. I have heard the learned Counsel for the Applicant, learned Counsel for the Complainant and the learned Assistant Prosecutor General, and have carefully examined the material available on record.

6. It is an admitted position that the Applicant was not nominated in the FIR. This circumstance assumes significance in the present case because the Complainant claims to have witnessed the occurrence himself and, in the earliest version recorded under Section 154, Cr.P.C., specifically named other persons allegedly present at the scene. Despite claiming to be an eyewitness, the Complainant did not mention the Applicant's name or assign any role to him in the FIR.

7. The matter does not end there. The record reflects that even after the passage of considerable time and during the investigation, the Applicant was not shown as an accused in the interim challan. No specific role was attributed to him at that stage. His name subsequently appeared for the first time in the final challan dated 13.11.2025, after a substantial lapse of time from the date of occurrence. The prosecution has not, at this stage, furnished any satisfactory explanation for such delayed introduction of the applicant into the case.

8. It is settled that at the stage of bail the Court is required to make a tentative assessment of the material available on record and is not expected to conduct a deeper appreciation of evidence. However, where an accused is not nominated in the FIR despite the complainant claiming to be an eyewitness, is not subsequently shown in the interim challan, and is introduced at a later stage without any specific role being assigned to him, such circumstances may legitimately be considered for determining whether the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C.

9. In the present case, apart from the delayed introduction of the applicant, there is no specific allegation in the material presently available that the applicant himself fired upon the deceased or caused any firearm injury to him. No recovery of weapon or other incriminating article has been effected from his possession. The prosecution's assertion regarding his alleged participation in the occurrence, therefore, requires further scrutiny at trial. At this stage, the Court cannot disregard the material omissions and the delay in his introduction merely on the basis of a general allegation of common intention.

10. It is also relevant that similarly placed co-accused, namely, Gul Muhammad son of Moosa and Hazrat Umar son of Rahmat Gul, have already been granted bail by the learned trial Court *vide* Orders dated 30.08.2025 and 31.07.2025, respectively. In the absence of any distinguishing material showing a substantially different or more incriminating role attributable to the present Applicant, the principle of consistency is attracted. The prosecution has not been able to point out any material on record which would justify treating the applicant differently from the co-accused who have already been admitted to bail.

11. The above circumstances, namely, non-nomination of the Applicant in the FIR despite the complainant claiming to be an eyewitness; his absence from the interim challan; his subsequent introduction in the final challan after a substantial and unexplained delay; absence of any specific role attributed to him in the commission of the murder; absence of recovery from his possession; and the grant of bail to similarly placed co-accused, collectively create a situation requiring further inquiry into the Applicant's involvement within the contemplation of Section 497(2), Cr.P.C.

12. For the foregoing reasons, I am of the tentative view that the Applicant has made out a case for the concession of post-arrest bail. Accordingly, the instant bail application is allowed. Applicant-Khair Muhammad son of Moosa is admitted to post-arrest bail subject to furnishing solvent surety in the sum of **Rs.200,000/- (Rupees Two Hundred Thousand Only)** with P.R. bond in the like amount to the satisfaction of the learned trial Court.

13. It is clarified that the observations made herein are tentative in nature and have been recorded solely for the purpose of deciding the present bail application. Nothing contained in this order shall prejudice the case of either party or influence the learned trial Court while deciding the matter on its merits after recording and appreciating the evidence.

JUDGE

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