

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Miscellaneous Application No.S- 543 of 2025

Applicant : Akram Ali Khaskheli through Mr. Shoaib Niaz Khaskheli, Advocate.

Respondent No.3 : Ali Muhammad Lashari, through Mr. Mushtaque Ahmed Laghari, Advocate

The State & Official: Through Mr. Muhammad Raza Katohar,
Respondent No.2 Deputy Prosecutor General

Date of hearing : **28-09-2026**
Date of order : **08-10-2026**

ORDER

TASNEEM SULTANA, J:- Through this Criminal Bail Application, applicant Wahid Bux Jagirani seeks pre-arrest bail in Crime No.284 of 2025, registered at Police Station “C” Section, Sukkur, for offences under Sections 302, 114, 147, 148, 149, 506(2), 337-F(i), 220, 392 and 381-A, P.P.C., read with Section 23 of the Sindh Arms Act, 2013. His earlier application for pre-arrest bail was dismissed by the learned Additional Sessions Judge-IV (Hudood), Sukkur, vide order dated 06.11.2025. Thereafter, he approached this Court through Criminal Bail Application No.S-1086 of 2025 and was granted interim pre-arrest bail; however, the said application, along with the connected bail applications, was dismissed for non-prosecution on 09.03.2026. Hence, the present application.

2. Brief facts of the prosecution case are that complainant Javed Ahmed alleged that on 01.10.2025, at about 9:50 p.m., while he was accompanying his father Muhammad Umar, accused Ghulam Mustafa and Kamran, along with police officials Abdul Hafeez Chachar, Wahid Bux Jagirani and Rafique Ahmed Chachar, arrived in a Corolla car. The accused allegedly forcibly took Muhammad Umar into the vehicle and assaulted him. The applicant Wahid Bux is specifically alleged to have taken out a belt, placed it around the neck of Muhammad Umar and thereafter to have sat upon him while the assault continued. Muhammad Umar became unconscious and subsequently died. It was further alleged that cash and mobile phones belonging to the deceased were taken away and that the motorcycle of the complainant side was also stolen.

3. Learned counsel for the applicant contended; that the applicant is innocent and has been falsely implicated due to previous hostility between the parties; that the complainant side was already involved in criminal litigation in which the applicant and other police officials were connected with the police proceedings, thereby furnishing motive for false implication; that despite the occurrence having allegedly taken place at a populated place, no independent person has been cited as a witness; that the prosecution evidence does not support the accusation in the manner alleged; that the medical evidence does not correspond with the allegation of strangulation through a belt; that during investigation the Investigating Officer had proposed the case under Section 322, P.P.C.; that the complainant himself had approached the Court for recording statements of witnesses under Section 164, Cr.P.C.; that the earlier bail application of the applicant was dismissed for non-prosecution and not on merits; that co-accused Abdul Hafeez Chachar, Rafique Ahmed Chachar, Ghulam Mustafa and Kamran have already been extended the concession of bail by this Court vide common order dated 18.05.2026; and that, on the principle of consistency, the applicant is also entitled to confirmation of pre-arrest bail.

4. Conversely, learned counsel for the complainant, assisted by learned Deputy Prosecutor General, opposed the application and contended; that the applicant is specifically nominated in the FIR with a direct role in the occurrence; that he is alleged to have placed a belt around the neck of deceased Muhammad Umar and thereafter to have sat upon him while the assault continued; that the ocular account supports the accusation against the applicant; that the plea of false implication on account of previous hostility does not, by itself, dislodge the specific role attributed to him; that the opinion of the Investigating Officer proposing the case under Section 322, P.P.C. was not finally accepted and the applicant has subsequently been sent to face trial; that charge has already been framed against the accused; that the case of the applicant is distinguishable from that of the co-accused already enlarged on bail; and that, in view of the nature of accusation and the specific role attributed to him, he is not entitled to confirmation of pre-arrest bail.

5. Heard. Record perused.

6. At the outset, the maintainability of the present application requires consideration. The earlier Criminal Bail Application No.S-1086 of 2025 was dismissed for non-prosecution on 09.03.2026 and was not adjudicated on merits. The present application, though subsequent in point of time, is therefore not barred on account of any earlier determination of the applicant's entitlement to bail on merits and is being considered accordingly.

7. A tentative appraisal of the record reflects that the applicant is specifically nominated in the FIR with a distinct and direct role. He is alleged to have taken out a belt, placed it around the neck of deceased Muhammad Umar and thereafter to have sat upon him while the assault continued. His case, therefore, cannot be treated at par with an accused to whom mere presence or a general role is attributed.

8. Learned counsel has relied upon the opinion formed during investigation, medical evidence, previous hostility between the parties, delay in registration of the FIR and the bail already granted to the co-accused. The record reflects that the Investigating Officer had proposed the case under Section 322, P.P.C.; however, the matter did not rest upon that opinion, as the prosecuting agency did not accept the omission of the offences appearing in the FIR in the manner proposed during investigation, and the applicant has subsequently been sent to face trial where charge has also been framed. The effect of the medical evidence and its correspondence with the ocular account, as well as the extent of individual liability of the accused, are matters to be determined after recording evidence at trial and cannot be subjected to deeper appreciation at the bail stage. The previous hostility and delay in registration of the FIR may require the prosecution evidence to be examined with caution at the appropriate stage, but, on tentative assessment, these circumstances do not displace the specific accusation attributed to the applicant. The plea of previous hostility, in the circumstances presently available on record, is also not sufficient to establish such mala fide as would justify the extraordinary concession of pre-arrest bail. Likewise, the bail granted to the co-accused does not automatically attract the rule of consistency where the role attributed to the present applicant furnishes a distinguishing feature.

9. It is now well settled law that at the bail stage only a bird eye-view of evidence is to be taken into consideration while deeper appreciation of evidence is not permissible, therefore, accused is required to establish a case of further inquiry. Of course, if it appears to the Court at any stage of the trial that there are no reasonable grounds for believing that the accused had committed a non-bailable offence and there are sufficient grounds for further inquiry into his guilt, the accused shall be released on bail. While exercising such discretion, the Courts must always satisfy its conscious between existence or non-existence of “reasonable grounds” to believe link or otherwise of accused with offence particularly when offence is falling within prohibitory clause. In every criminal case some scope of further inquiry into the guilt of the accused is exists, but on that consideration alone it cannot be claimed by the accused as a matter of right that he is entitled to bail. For bringing the case in the ambit of further inquiry, there must be some prima facie evidence, which on the tentative assessment, are sufficient to create doubt with respect of involvement of accused in the crime. In Iqbal Hussain vs. Abdul Sattar and another (PLD 1990 SC 758) while setting aside the bail granting Order of the High Court, the apex Court referred to the tenancy in Courts to misconstrue the concept of further inquiry and held as follows: -

“..... It may straightaway be observed that this Court has in a number of cases interpreted subsection (2) of section 497 Cr.P.C. which, with respect, has not been correctly understood by the learned Judge in the High Court nor has it been properly applied in this case. While he thought that it was a case of further inquiry which element as has been observed number of times in many cases, would be present in almost every case of this type. The main consideration on which the accused becomes entitled to bail under the said subsection is a finding, though prima facie, by the Police or by the Court in respect of the merits of the case. The learned Judge in this case avoided rendering such prima facie opinion on merits as is mentioned in subsection (2) of section 497 Cr.P.C. and relied only on the condition of further inquiry. This approach is not warranted by law. Hence, the case not being covered by subsection (2) of section 497 Cr.P.C., the respondent was not entitled to bail thereunder as of right.”

10. The combined effect of the material available on record, viewed tentatively and without deeper appreciation, prima facie provides reasonable grounds for believing that the applicant is involved in the commission of the alleged offence. The circumstances relied upon by the defence do not bring his case within the ambit of subsection (2) of Section

497, Cr.P.C. The offence under Section 302, P.P.C. falls within the prohibitory clause of Section 497(1), Cr.P.C., and the material presently available does not warrant extension of the extraordinary concession of pre-arrest bail.

11. In view of the above facts and circumstances, the applicant Wahid Bux Jagirani has failed to make out a case for confirmation of pre-arrest bail. Consequently, the instant Criminal Bail Application is **dismissed** and the interim pre-arrest bail granted to him vide order dated 18.05.2026 is hereby recalled.

J U D G E

Ahmad