

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-141 of 2026

Applicant: Iqbal through Mr. Sunil Kumar, Advocate.
Respondent: The State through Ms. Rameshan Oad, Deputy
Prosecutor General, Sindh.
Complainant: Sain Bux through Mr. Talib Khan Bhatti,
Advocate.
Date of hearing: 16.10.2026.
Date of order: 16.10.2026.

ORDER

MUHAMMAD HUMAYON KHAN, J.- The applicant/accused, Iqbal son of Arbab Ali, seeks post-arrest bail in Crime No.25 of 2020, registered at Police Station Daulatpur, District Shaheed Benazirabad, for offences punishable under Sections 302, 449, 34, P.P.C. His earlier bail application was dismissed by the learned Additional Sessions Judge-V/Model Criminal Trial Court (MCTC), Shaheed Benazirabad, by order dated 08.12.2025.

2. The prosecution case is that, at about 7:00 p.m. on 14.02.2020, the complainant Sain Bux and other family members were present at their house when accused Nabban Lakho, armed with a pistol, and the present applicant, allegedly armed with a repeater, entered the premises. Nabban is alleged to have fired at Allah Bux, causing a fatal injury to his chest. The applicant is alleged to have aimed his repeater at the complainant party and thereby prevented them from intervening. He was named in the FIR lodged on the following day.

3. Learned counsel contends that the applicant is innocent and has been implicated falsely on account of previous enmity and personal grudge. He contended that no specific overt act of firing or causing injury has been attributed to him and that the fatal shot is alleged to have been fired by co-accused Nabban alias Billo. According to the learned counsel, the applicant's alleged possession of a repeater and presence at the place of occurrence do not, by themselves, establish his participation in the commission of the offence, and the question of common intention requires further inquiry. He further contended that the prosecution witnesses are related to the complainant; that the applicant was residing at a different

address and had no knowledge of the proceedings; and that co-accused Mukhtiar Lakho has been acquitted, thereby attracting the rule of consistency. Learned counsel contended that the applicant's continued incarceration is unwarranted and prayed for grant of bail.

4. Conversely, the learned D.P.G. Sindh opposed the application on the ground that the applicant is specifically nominated in the FIR and is alleged to have entered the complainant's house, armed with a repeater, in furtherance of common intention with the principal assailant. She contended that the ocular account, read with the circumstances of the occurrence and the medical evidence concerning the fatal firearm injury, provides *prima facie* support to the prosecution case. She further pointed out that the applicant remained fugitive from for approximately five years and eight months and was arrested only on 28.10.2025, and that no sufficient ground for the grant of bail has been made out.

5. Learned counsel for the complainant adopted the submissions advanced on behalf of the State and further contended that the applicant's alleged role cannot be isolated from the occurrence merely because the fatal shot was attributed to the co-accused. He contended that the applicant allegedly accompanied the principal assailant into the complainant's house while armed with a repeater, thereby providing support and intimidation during the commission of the offence. The learned counsel contended that the allegation of common intention, the direct ocular account and the applicant's prolonged abscondence are material circumstances which militate against the exercise of discretion in his favour; hence, he prayed for dismissal of bail application.

6. Heard learned counsel for the applicant, the learned Deputy Prosecutor General and learned counsel for the complainant. The available record has been tentatively examined.

7. The post-mortem evidence records a firearm injury to the deceased's chest, with damage to vital organs, and attributes death to haemorrhage and shock caused by firearm injuries. This evidence corroborates the cause of death; it does not, by itself, identify the assailants. The applicant's alleged participation rests on the ocular account, which assigns him a specific role. Whether that role, together with the other circumstances, establishes common intention under Section 34, P.P.C., is for the trial Court to determine. The record shows that the complainant informed the police at the police post on the evening

of the occurrence, the post-mortem examination was conducted that night, and the FIR was lodged after the body had been taken for burial. At this stage, the interval before formal registration of the FIR does not, by itself, make the applicant's case one of further inquiry. Ghazi Arab v. The State (2025 SCMR 1967) supports that limited proposition; its distinct evidentiary circumstances do not determine the present application.

8. The applicant also relies on the acquittal of co-accused Mukhtiar Lakho. The acquittal judgment records that Mukhtiar was not named in the FIR and that the initial police statements referred only to an unidentified, open-faced person carrying a lathi near the entrance. His name emerged in a further statement recorded about four and a half months after the occurrence. The Investigating Officers had placed him in column No.2, citing a dispute over a street, and the trial Court found no specific role or reliable material connecting him to the occurrence. The applicant's case is materially different. He was named in the FIR from the outset, and the complainant and Nadeem Ali attributed to him the role of entering the house armed with a repeater and aiming it at the witnesses while Nabban fired at the deceased. Mukhtiar's acquittal based on the deficiencies particular to the evidence against him, does not by itself place the applicant on the same footing. The principle in Ghazi Arab's case likewise requires a comparison of the accused's role and the material against him; it does not make an acquittal of one accused determinative of another's bail application.

9. The applicant remained an absconder until his arrest on 28.10.2025. His earlier bail application was dismissed on 08.12.2025. Considered with the specific ocular attribution and the present record, the grounds urged do not bring his case within Section 497 (2), Cr.P.C. The bail application is accordingly **dismissed**.

10. The observations made above are tentative and shall not prejudice the trial Court's independent assessment of the evidence.

JUDGE