

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-855 of 2026

Applicant: Ghulam Nabi @ Gulabi through Mr. Ali Ahmed Laghari, Advocate.

Respondent: The State through Ms. Rameshan Oad, Deputy Prosecutor General, Sindh.

Complainant: None present.

Date of hearing: 16.10.2026.

Date of order: 16.10.2026.

ORDER

MUHAMMAD HUMAYON KHAN, J. – The applicant/accused, Ghulam Nabi @ Gulabi son of Muhammad Yousif, seeks post-arrest bail under Section 497, Cr.P.C. in Crime No.97 of 2020, registered at Police Station Bulri Shah Karim, District Tando Muhammad Khan, for offences punishable under Sections 302/34, P.P.C.

2. The prosecution case, briefly stated, is that on 08.09.2020 the complainant's son, Allah Bachayo, left home to collect fodder but did not return. During the search, the complainant was informed that the deceased had been seen with certain persons. The following morning, his body was found in a watercourse with injuries and a rope tied to one foot. The FIR was lodged on 09.09.2020. The applicant was not nominated therein.

3. Learned counsel contends that the applicant was implicated later through the statement of PW Ali Hassan recorded under Section 164, Cr.P.C., about nineteen days after the occurrence. He contends that the witness did not disclose the source of his information; that his statements under Sections 161 and 164, Cr.P.C., and his deposition contain material discrepancies; and that no recovery was effected from the applicant. He further relies on the applicant's non-nomination in the FIR and the outcomes of proceedings against co-accused, and seeks bail on the ground of further inquiry.

4. Conversely, learned Deputy Prosecutor General opposes the application. She submits that PW Ali Hassan attributed participation in the occurrence to the applicant and that the evidence recorded at trial, read with the other material on record, connects him with the offence.

5. The record shows that the applicant's earlier post-arrest bail application was dismissed by the learned Sessions Judge on 30.11.2020. His subsequent Criminal Bail Application No.S-865 of 2021 was dismissed by this Court on 01.11.2021. He thereafter pursued successive applications before the learned Sessions Court, the latest of which was dismissed on 09.06.2026. The present application is considered in light of the evidence recorded during trial. In the case of AMIR MASIHI v. The STATE (2013 SCMR 1059), the Supreme Court reiterated that a successive bail application before the same forum requires a fresh ground unavailable at the time of the earlier application. The trial evidence now relied upon is therefore examined to determine whether it materially changes the position.

6. The applicant's non-nomination in the FIR, the subsequent disclosure of his name, the delay in recording the statement under Section 164, Cr.P.C., and the discrepancies identified by the defence are relevant considerations. At this stage, however, the Court is required to make only a tentative assessment. PW Ali Hassan has, in his deposition before the trial Court, attributed a role to the applicant. The statement under Section 164, Cr.P.C., is not treated as substantive evidence by itself; it is considered in its proper evidentiary context, alongside the witness's testimony and the remaining material on record. The effect of the alleged contradictions and the explanation, if any, for the delay are matters for appraisal at trial.

7. The medical evidence and recovery of the body establish the homicidal death of Allah Bachayo but do not, by themselves, identify the assailant. The absence of recovery from the applicant is a relevant circumstance, though not decisive where the prosecution relies on ocular evidence. The outcomes of proceedings against co-accused do not, without a comparison of their respective roles and the evidence against them, establish a right to bail on the ground of parity. The applicant's past abscondence forms part of the procedural history but is not treated as an independent ground for refusal. On a tentative assessment of the material presently available, the prosecution has produced evidence connecting the applicant with the alleged occurrence.

8. The grounds urged do not bring the case within the ambit of further inquiry under Section 497 (2), Cr.P.C. The application is accordingly **dismissed**.

9. The observations made herein are tentative and shall not prejudice the trial; the questions of credibility and evidentiary weight shall be determined by the trial Court independently.

JUDGE

Abdullah Channa/PS