

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S-528 of 2026

Applicant: Bashir Ahmed son of Ameer Bux bycaste Chandio, **through** Mr. Syed Ghulam Hussain Shah, Advocate.

The Complainant: Mujahid Ali son of Fateh Muhammad Chandio, **through** Mr. Ali Akbar Shar, advocate.

The State **Through** Mr. Shafi Muhammad Mahar, Deputy Prosecutor General, Sindh.

Date of hearing & Orders:09-09-2026.

ORDER.

Suresh Kumar, J.--- Through, instant bail application, applicant named above seeks post arrest bail in a case bearing crime No. 13/2025, offence u/s 302, 114, 337A(i), 337F(i), 337H(ii), 504, 147, 148, 149 PPC registered at Police Station Ahmedpur, District Khairpur.

2. The facts of the prosecution case, as depicted in the FIR lodged on 18-02-2025 by complainant Mujahid Ali Chandio, are that on 14-02-2025, at approximately 11:00 hours, in front of the complainant's house, accused Bashir Ahmed, armed with a pistol, and accused Pervaiz with a lathi, Yasir with an iron rod, Zahid with a cricket bat, Farhan with a lathi, Yousif with a knife, Kamran with a lathi, and Rizwan with a pistol approached the complainant. At the instigation of accused Bashir, accused Yasir struck Jalal on the forehead with the iron rod, accused Zahid struck Jalal on the back of his head with the bat, accused Yousif inflicted a knife wound under Jalal's right eye, and accused Kamran struck the complainant on the left side of his chest with the lathi. Additionally, accused Rizwan delivered fist blows to the complainant. The complainant party raised cries for help, which attracted Mst. Zanzeer Khatoon, Mst. Jinsar Khatoon, and Mst. Amina. Accused Farhan struck Mst. Jinsar

Khatoon on her left arm and left leg with the lathi, while accused Seengar struck Mst. Zanzeer Khatoon in the abdomen and Mst. Amina on the right side of her head. Khair Muhammad, Amjad Ali, and other villagers arrived at the scene, at which point the accused persons fled while making aerial firing. The complainant party, after obtaining a police letter, transported the injured persons to the hospital; however, Jalal, the complainant's brother, later succumbed to his injuries. Ultimately, the complainant lodged the aforementioned FIR.

3. I have heard learned counsel appearing on behalf of the applicant/accused, learned Deputy P.G for the State assisted by learned counsel for the complainant, who have strongly opposed the bail application.

4. Having given due consideration to the arguments advanced by the learned counsels representing the respective parties, and having perused the relevant record, it is revealed from the examination of the FIR that applicant/accused Bashir Ahmed has been assigned the role of instigation and making aerial firing; however, no injury is attributed to him. Therefore, the question that requires determination is whether the lalkara raised by the applicant was commanding in nature or merely proverbial, which necessitates further inquiry. In this regard, reliance is placed on the cases of Sher Afzal v. The State (2022 SCMR 186) and Tariq Zia v. The State (2003 SCMR 958). A similar view has been taken by the Hon'ble Supreme Court in the case of Kamran v. Kamran Malik (2020 SCMR 1814), which is held as follows:

---S. 497(2)---Penal Code (XLV of 1860), Ss. 302(b) & 109---Qatl-i-amd, abetment---Bail, grant of---Further inquiry---Son instigating his father to commit murder---Act contrary to tradition---Accused was statedly present with other family

members outside his home where the deceased persons had come to lodge complaint for a previous incident---According to the prosecution's own showing the accused was not attributed any harm to the deceased persons, and he allegedly instigated his father (the co-accused) to murder the deceased persons---Question as to whether, instead of taking the deadly initiative himself, the accused preferred to persuade his father for the misadventure, a role, contrary to the traditions, brought the accusation within the ambit of S. 497(2), Cr.P.C., and, would be best settled after recording of evidence---Accused could not be kept behind bars merely as a measure of punishment---Investigation being complete, continuous detention of accused was not likely to serve any useful purpose beneficial to the prosecution---Petition for leave to appeal was converted into appeal and allowed, and accused was released on bail.

5. In the case of *Qurban Ali v. The State* (2017 SCMR 271), it has been held that although three persons from the complainant's side lost their lives, two persons from the accused's side also sustained injuries. The accused had not been attributed any overt act during the occurrence, except for the role of raising lalkara; therefore, bail was granted on the grounds of further inquiry. Moreover, co-accused Yousif Ali, who has been assigned the role of causing injury to the complainant, has been granted bail by this Court, while co-accused Pervaiz, who was armed with a lathi but has not been assigned any role, has been granted bail by the learned 1st Additional Sessions Judge, Khairpur. The case of the present applicant is even on a better footing than that of the co-accused. In such circumstances, the applicant/accused is also entitled to bail in view of the rule of consistency. The case has been challaned, and the applicant has been in custody since 20-02-2026; however, the trial has not yet concluded.

6. For the foregoing reasons above and guidelines taken from the above case laws, I am of considered view that the applicant/accused has successfully made out a case for the grant of bail, therefore, he is admitted to bail subject to furnishing solvent surety in the sum of Rs. 100,000/- (One lac) and P.R bond in the like amount to the satisfaction of learned trial Court.

7. Needless to say that the above observations are tentative in nature and will not prejudice the case of either party at the time of trial.

J U D G E

Nasim/P.A