

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No.S-262 of 2026.
[Abdul Hafeez Chachar and another vs. The State]

Criminal Bail Application No.S-381 of 2026.
[Ghulam Mustafa Napar vs. The State]

Criminal Bail Application No.S-436 of 2026.
[Kamran Napar vs. The State]

Mr. Sundar Khan Chachar, Advocate for applicants in Cr. Bail Application No.S-262 of 2026.

Mr. Muhammad Ali Napar, Advocate for the applicant in Cr. Bail Application No.S-381 and 436 of 2026.

M/s Ali Ahmed Khan and Bilal Ahmed Soomro, Advocates for the complainant in Cr. Bail Application No. S-262 of 2026.

Syed Sardar Ali Shah Jillani, Advocate for the complainant in Cr. Bail Application No.S-381 and No.S-436 of 2026, along with complainant Javed Ahmed Napar.

Syed Sardar Ali Shah Rizvi, Additional Prosecutor General for the state.

Date of Hearing : 18.05.2026

Date of Order : 18.05.2026

ORDER

Ali Haider 'Ada' J. By this single order, Criminal Bail Application No.S-262 of 2026 titled Abdul Hafeez and Rafique Ahmed v. The State, whereby the applicants seek pre-arrest bail, Criminal Bail Application No.S-381 of 2026 titled Ghulam Mustafa v. The State, also seeking pre-arrest bail, and Criminal Bail Application No.S-436 of 2026 titled Kamran v. The State, seeking post-arrest bail, are being disposed of together, as all the above bail applications arise out of FIR No.284 of 2025 registered at Police Station C-Section, Sukkur, for offences punishable under sections 302, 114, 147, 148, 149, 506(2), 337-F(i), 220, 392, 381-A, P.P.C., read with section 23 of the Sindh Arms Act.

2. The main crux of the FIR is that on 01.10.2025 at about 09:50 p.m., the complainant, along with his father, namely Muhammad Umar Napar, proceeded towards their Otaq after returning from a petrol pump situated near Railway Station, Rohri, while carrying an amount of Rs. 200,000/- (Rupees Two Lac). In the meantime, the

accused, namely Ghulam Mustafa and Kamran, with whom an old dispute allegedly existed, along with accused Rafique Chachar, SHO Dubbar Police Station, P.C Wahid Bux armed with a K.K., and SHO Abdul Hafeez Chachar armed with pistols, arrived there in a vehicle. It is alleged that the accused persons attempted to kidnap Muhammad Umar and, during the said occurrence, the above police officials caused pistol-butt blows to the complainant party. It was further alleged that the accused persons strangled Muhammad Umar by wrapping a belt around his neck and also caused injuries to him by means of weapons. The complainant party allegedly followed the accused persons and, during such process, they fell down after being hit by the vehicle. It was further alleged that the accused Wahid Bux Jagirani sat upon Muhammad Umar and tightened the belt around his neck, while the remaining accused caused weapon blows on different parts of his body. However, upon raising cries, the accused persons fled away from the scene. The FIR further reflected that the amount of Rs. 200,000/-, mobile phones, and motorcycles were found missing from the place of occurrence. Muhammad Umar, who sustained injuries during the incident, later succumbed to the same, as confirmed by the medical officer. Ultimately, the incident was reported on 02.10.2025 at about 03:00 p.m.

3. After registration of the FIR, the matter was investigated, and the accused Kamran and Ghulam Mustafa were declared innocent, and their names were accordingly placed in Column No.II of the report submitted under section 173, Cr.P.C. Furthermore, the challan was submitted under section 322, P.P.C.

4. Learned counsel appearing on behalf of the applicants in Criminal Bail Application No.S-262 of 2026 submitted that prior to the present incident, FIR No.63 of 2025 had already been lodged by co-accused Ghulam Mustafa against the present complainant party and deceased Muhammad Umar. The said FIR was lodged on 01.10.2025 at about 03:00 hours in respect of an incident which allegedly took place on 01.10.2025 at about 12:00 noon, and the

investigating officer of the said FIR was applicant Abdul Hafeez Chachar. He further submitted that another FIR bearing Crime No.65 of 2025 had also been registered against co-accused Kamran and Ghulam Mustafa, whereas complainant Munawar Hussain is closely related to the complainant of the present FIR No.284 of 2025, which clearly establishes previous enmity between the parties. Learned counsel further argued that during the investigation, the investigating officer concluded that the case was not covered under section 302, P.P.C., but rather under section 322, P.P.C., and even declared Kamran and Ghulam Mustafa innocent by placing their names in Column No. II. However, the learned Magistrate concerned observed in paragraph No.11 of the order that such a question would be determined after framing of charge and did not accept the finding of innocence recorded by the investigating officer. Learned counsel further submitted that to date, a charge has not yet been framed in the case. He further contended that the post-mortem report issued by the medical officer is itself under challenge and, in support thereof, produced an office order issued by the Directorate General Health Services, Sindh, Hyderabad, whereby a special medical board had been constituted to examine the medical report of the deceased. Learned counsel also relied upon Roznamcha entries as well as the Book Log of 15 of the police station to show that applicants Abdul Hafeez and other police officials were actually engaged in proceedings relating to Crime No.63 of 2025 at the relevant time. In support of his contentions, he placed reliance upon 2017 SCMR 1939.

5. On the other hand, learned counsel appearing on behalf of applicants/accused Ghulam Mustafa and Kamran in Criminal Bail Application Nos.S-381 and 436 of 2026 submitted that the deceased was the real brother of the accused persons and a property dispute had arisen amongst the family members after the death of their father, namely Khan Muhammad, regarding the distribution of inherited property. According to the learned counsel, due to the said dispute, the names of the applicants were transpired in the FIR, and

earlier FIR No.63 of 2025 had also been lodged by accused Ghulam Mustafa against the complainant party. He further submitted that during investigation the investigating officer found the applicants innocent and placed their names in Column No.II of the challan, while no specific role had been attributed to them. He further argued that even according to the contents of the FIR, previous enmity between the parties stood admitted. Learned counsel further submitted that section 322, P.P.C. was also not attracted against the present applicants. In support of his submissions, reliance was placed upon Petition No.727 of 2025 titled Asadullah alias Abdul Hameed v. The State, wherein the august Supreme Court of Pakistan granted bail while considering the fact that the names of the accused persons had been placed in Column No.II during investigation.

6. Conversely, learned counsel for the complainant in Criminal Bail Application No.S-262 of 2026 submitted that there was a clear violation of Rule 25.8, Chapter XXV of the Police Rules, 1934, as there are specific allegations against the applicants and six injuries had been attributed, which allegedly caused the death of the deceased. He further submitted that paragraph No.8 of the earlier order clearly reflected the role assigned to the present applicants. According to him, the applicants are repeat bail seekers as their earlier bail application had already been dismissed for non-prosecution; therefore, they are not entitled to the concession of bail in view of their specific role in the occurrence.

7. As far as learned counsel for the complainant in Criminal Bail Application Nos.S-381 and 436 of 2026 is concerned, he argued that serious injuries have been reflected in the post-mortem report, and all the accused persons were allegedly armed with deadly weapons. He further submitted that there is no mala fide on the part of the complainant to falsely implicate the accused persons. According to him, the recovery of robbed property could not be effected because the accused persons were enjoying interim pre-arrest bail. He further contended that if the accused persons intended to arrest the deceased Muhammad Umar in connection with FIR No.63 of 2025,

then even the present complainant Javed had also been nominated therein. So far as section 322, P.P.C. is concerned, learned counsel relied upon a letter dated 03.03.2026 issued by the learned Judicial Magistrate addressed to the Assistant Registrar of this Court, wherein it was mentioned that section 302, P.P.C. had also been inserted and cognizance under section 302, P.P.C. had been taken. He further submitted that withdrawal or dismissal of a bail application for non-prosecution attains finality and a subsequent bail application before the same forum is not maintainable. Learned counsel also produced certain photograph allegedly showing the applicants roaming freely within the court premises after dismissal of their earlier bail applications on account of non-prosecution. He further argued that the order of the learned Magistrate had not been challenged by the accused party. In support of his contentions, reliance was placed upon 2021 SCMR 387, 2013 SCMR 1059, 2011 SCMR 170, 2000 SCMR 1645, 2025 MLD 872, 2010 SCMR 1861, unreported Bail Application No.S-217 of 2024 decided by the High Court of Sindh, Circuit Court Larkana, and 2020 P.Cr. L.J 974. He lastly prayed for the dismissal of the bail applications.

8. Conversely, the learned Additional Prosecutor General opposed the bail applications by contending that the incident had taken place at a public place where public persons had gathered, and even an application under sections 22-A & 22-B, Cr.P.C. had been filed for the arrest of the accused persons. He further submitted that statements of the complainant party had also not been recorded under section 164, Cr.P.C. According to him, the investigation had not been conducted transparently because police officials themselves were amongst the accused persons; therefore, undue favour had been extended to them during the investigation. He lastly submitted that each case is to be decided on its own peculiar facts and circumstances and prayed for dismissal of the bail applications.

9. Heard and perused the material available on record.

10. At the stage of deciding the instant bail application, it is necessary, for reaching a just and proper conclusion, to tentatively examine the merits of the case. In this regard, reliance is placed upon the judgments rendered in *Abdul Rehman alias Muhammad Zeeshan v. The State and others* (2023 SCMR 884) and *Khair Muhammad and another v. The State* (2021 SCMR 130).

11. First of all, on the point of subsequent bail, withdrawal of an earlier bail petition before addressing any arguments on the merits of the case does not preclude filing of a subsequent bail petition seeking the same relief on the same grounds before the same Court. Support in this regard is drawn from the case of **Nadeem Samson v. The State, reported as PLD 2022 Supreme Court 112.**

12. As per the prosecution's case, admittedly, previous enmity existed between the parties. The material available on record further reflects that the accused Ghulam Mustafa and Kamran are brothers of the deceased, and a property dispute between the parties was already pending before the present occurrence, regarding which an FIR had also been lodged much earlier than the incident in question. It has further come on record that the present applicant, Abdul Hafeez Chachar, had remained Investigation Officer against the complainant party as well as the deceased; therefore, in such circumstances, the possibility of false implication of the applicant on account of previous hostility and admitted enmity cannot safely be ruled out at this stage. No doubt, enmity is a double-edged weapon which cuts both ways, as it may furnish a motive for the commission of an offence as well as for false implication. Reliance is placed upon the case of **Muhammad Riaz vs The State, 2024 SCMR 1839.**

13. The alleged incident, as shown in the FIR, had taken place on 01.10.2025 at about 09:50 p.m.; however, the FIR was registered on the following day at about 03:00 p.m., thus there is a delay of almost 17 hours in lodging of the FIR. Admittedly, the police station was located at a distance of merely half a kilometer from the place of occurrence, and the alleged incident had taken place in a public

place, yet no plausible or satisfactory justification has been furnished by the prosecution regarding such enormous and unexplained delay in registration of the FIR.

14. It is settled law that an unexplained delay in lodging the FIR creates serious doubt regarding the truthfulness of the prosecution's version, as the same provides sufficient time for deliberation and consultation. In this regard, reliance is placed upon the judgment rendered by the Supreme Court of Pakistan in the case of **Mazhar Ali v. The State reported as 2025 SCMR 318**, wherein while deciding a post-arrest bail application, the Hon'ble Supreme Court considered the delay of about 13 hours and 50 minutes in registration of the FIR as a material circumstance attracting the principle of further inquiry within the meaning of section 497(2),

15. Furthermore, the post-mortem report, if carefully perused, reveals that the deceased was stated to have died due to emphysema on both sides of the neck and congestion leading to asphyxia. Admittedly, as per the prosecution's case narrated in the FIR, the alleged strangulation was committed through a belt by the accused persons. However, the internal examination reflected in Column No.24 of the post-mortem report about the neck shows that the musculature, underlying surface injuries, cricoid cartilage, thyroid cartilage, and trachea were all reported as "NAD" (No Abnormality Detected). Thus, the medical evidence does not appear to be fully consistent with the ocular account furnished by the prosecution. Had the deceased actually been strangled through a belt in the manner alleged by the prosecution, some corresponding internal injuries or abnormalities upon the neck structures would normally have been observed during internal examination; however, admittedly, no such sign or injury was detected by the medical officer. Therefore, at least tentatively, the allegation regarding causing strangulation through a belt becomes doubtful and calls for further inquiry.

16. There are material inconsistencies between the injuries as narrated in the FIR and those reflected in the medico-legal report, rendering the medical evidence doubtful. This contradiction between the medical evidence and the ocular account creates a dent in the prosecution's case at this stage. In such circumstances, the Superior courts have consistently held that where medical evidence is at variance with the ocular testimony, the benefit thereof accrues to the accused. Reliance, in this regard, is placed upon the judgments reported as *Ehsan Akbar v. The State and others* (2007 SCMR 482), *Mst. Yasmin Butt v. Majid Baig alias Bobby Pehlwan and another* (2008 SCMR 1602), *Muhammad Ramzan v. Rahib and others* (PLD 2010 SC 585), *Khalid Mehmood and another v. Muhammad Kashif Rasool and others* (2013 SCMR 1415), *Syed Khalid Hussain Shah v. The State and another* (2014 SCMR 12), *Awal Khan and others v. The State through AG, KPK and another* (2017 SCMR 538), and *Mir Muhammad v. The State through Prosecutor General Sindh* (2024 SCMR 805).

17. A consistent line of authority of the Supreme Court holds that where there is a conflict between the ocular account and medical evidence, the benefit of such discrepancy, at least at the bail stage, is to be extended to the accused. In *Abdul Baqi Shah v. The State* (1997 SCMR 32), the Honourable Supreme Court observed that a tentative assessment of the ocular and medical evidence revealing conflict between the two entitles the accused to the benefit thereof at the bail stage; consequently, the petition for leave to appeal was converted into an appeal and bail was granted. Similarly, in *Shafaqat alias Gunga v. The State* (1994 SCMR 1680), where the ocular account was found to conflict with the medical evidence and one of the accused had already been found innocent during police investigation, the case was considered fit for the grant of bail

18. The applicants, namely Ghulam Mustafa and Kamran, were declared innocent by the investigating agency during the course of investigation. Consequently, their names were placed in Column No.II of the report submitted under section 173, Cr.P.C. The fact that

the investigating agency itself found the applicants innocent is a significant circumstance which, at least tentatively, lends support to the plea raised by the defence and brings the case within the ambit of further inquiry as contemplated under section 497(2), Cr.P.C. In this regard, reliance is placed upon the judgments of the Honourable Supreme Court in *Sharif Khan v. The State* (2021 SCMR 87), *Muhammad Imran v. The State* (2023 SCMR 1152), and *Abdul Rehman v. The State* (2023 SCMR 2081).

19. It is well-established that the allegations levelled in the FIR are subject to proof at trial, and bail cannot be withheld by way of punishment. Where the role attributed to the accused gives rise to doubt or requires further probing, the case squarely falls within the ambit of further inquiry. In this regard, reliance is placed upon the judgments in *Binyameen v. The State through A.G. Khyber Pakhtunkhwa and another* (2026 SCMR 99) and *Ghulam Hyder v. The State* (2021 SCMR 1802).

20. It is a settled principle of law that it is preferable to err in granting bail rather than in refusing the same, as any error in the grant of bail can subsequently be rectified through conviction and sentence. In support of this proposition, reliance is placed upon the judgment rendered in *Ahmad Nawaz and another v. The State and another* (2024 SCMR 1525).

21. It is by now a firmly established and recognized principle of criminal jurisprudence that the mere gravity or heinousness of an offence cannot, by itself, be made a ground to refuse bail, if otherwise the case of the accused calls for further inquiry. Likewise, bail cannot be withheld as a measure of punishment. In this regard, reliance is placed upon the case of *Husnain Mustafa v. The State and another* (2019 SCMR 1914).

22. It is a recognized principle of law that the grant of bail is merely for the purpose of securing the release of an accused upon furnishing surety and does not, in any manner, amount to an acquittal. This principle finds support from the judgment in *Haji*

Muhammad Nazir v. The State (2008 SCMR 807).

23. For the grant of pre-arrest bail, one of the essential preconditions is that the accused must demonstrate that his arrest is being sought by the prosecution on account of mala fide or for ulterior motives. However, at the stage of pre-arrest bail, it is inherently difficult for an accused to establish mala fide through direct or positive evidence; therefore, the same is to be inferred from the facts and circumstances of the case. Where surrounding circumstances, events, or attendant factors provide reasonable indications of such mala fide, the requirement stands sufficiently satisfied. In this regard, reliance is placed upon the judgment in *Khalil Ahmed Soomro and others v. The State (PLD 2017 SC 730)*.

24. It is also a settled principle of law that the benefit of doubt can even be extended at the bail stage where the material available on record creates a reasonable doubt regarding the involvement of the accused. Even a single circumstance creating doubt in the mind of a prudent person is sufficient to entitle an accused to the concession of bail. Reliance in this regard is placed upon the case of **Naveed Sattar v. The State (2024 SCMR 205)**.

25. Keeping in view the foregoing reasons and discussion made hereinabove, the matter, at least tentatively, falls within the ambit of further inquiry and, thus, the applicants are entitled to the concession of bail. Consequently, the pre-arrest bail application of applicants Abdul Hafeez Chachar and Rafique Ahmed Chachar bearing Bail Application No. S-262 of 2026 is allowed and the interim pre-arrest bail already granted to them vide order dated earlier, subject to furnishing surety in the sum of Rs.100,000/- each, is hereby confirmed. However, the applicants are directed to furnish further surety in the like amount of Rs.100, 000/- each to the satisfaction of the learned trial Court.

Similarly, the pre-arrest bail application of applicant Ghulam Mustafa Napar bearing Bail Application No.381 of 2026 is also allowed, and the interim pre-arrest bail earlier granted to him,

subject to surety in the sum of Rs. 50,000/-, is hereby confirmed; however, he is directed to furnish further surety in the sum of Rs.150, 000/- to the satisfaction of the learned trial Court.

So far as the post-arrest Bail Application No.436 of 2026 filed by applicant Kamran Napar is concerned, the same is allowed, and the applicant is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs. 200,000/- and P.R bond in the like amount to the satisfaction of the learned trial Court.

26. Needless to observe that the observations made hereinabove are purely tentative in nature and shall not prejudice the case of either party during trial.

JUDGE