

IN THE HIGH COURT OF SINDH CIRCUIT COURT
LARKANA

Criminal Bail Application No. S-331 of 2025

Applicant : Mohammad Irfan s/o Lakhmir by
caste Kalar, *through* Mr. Azhar
Hussain Abbasi, Advocate.

The State : Through Mr. Nazir Ahmed Bangwar,
Deputy Prosecutor General, Sindh.

Complainant : Mst. Sasui Khatoon, *through*
Mr. Muhammad Afzal Jagirani,
Advocate.

Date of Hearing : 07-09-2026
Date of Order : 07-09-2026.

ORDER

Ali Haider 'Ada' I.- Through this Bail Application, the applicant seeks post-arrest bail in Crime No.06 of 2022, registered at Police Station Tajo Dero, for offences punishable under Sections 302, 324, 337-H(ii), 114, 148 and 149, P.P.C. Prior thereto, his bail application was dismissed by the learned Ist Additional Sessions Judge, Jacobabad, vide order dated 25.03.2025.

2. The crux of the prosecution case, as set out in the FIR lodged by Mst. Sasui Khatoon, is that the present applicant Muhammad Irfan, along with the other accused, allegedly intercepted and restrained the complainant party, whereafter accused Punhal and Muhammad Irfan resorted to firing. The fire attributed to accused Punhal struck Niaz, who succumbed to the injury, whereas the fire attributed to the present applicant struck injured Suhail. The remaining accused allegedly fired in the air and thereafter escaped from the spot. The occurrence allegedly took place on 18.04.2022, whereas the FIR was registered on 19.04.2022.

3. Learned counsel for the applicant contends that the applicant has been falsely implicated and that no role in the commission of murder has been attributed to him. According to learned counsel, the specific allegation against the applicant is confined to causing a firearm injury to injured Suhail, which, as reflected in the medical certificate, is classified as *Ghayr-Ja'ihah Mutalahimah* and does not fall within the prohibitory clause of Section 497(1), Cr.P.C. Learned counsel has further drawn the attention of the Court to the deposition of injured Suhail, who, during his evidence before the learned trial Court, did not identify the present applicant as the assailant. He, therefore, contends that the applicant's case requires further inquiry within the meaning of Section 497(2), Cr.P.C. Furthermore, learned counsel submits that, prior thereto, the bail application of the present applicant was turned down by this Court vide order dated 24.11.2022; however, despite the lapse of about four years, the prosecution has failed to conclude the trial. Learned counsel has drawn attention to the case diaries annexed with the bail application, which reflect the delay in the progress of the trial. Learned counsel further relies upon the fresh ground that the applicant was not identified by the injured during the course of his evidence.

4. Conversely, learned counsel for the complainant as well as learned Deputy Prosecutor General submit that although the injured witness did not identify the applicant during his deposition, such aspect requires deeper appreciation of evidence at trial. They contend that the applicant is nominated in the FIR and is involved in offences falling within the prohibitory clause; hence, he does not deserve the concession of bail.

5. Heard the learned counsel for the parties and perused the record.

6. Perusal of the record shows that the present applicant has not been assigned any role in causing the fatal injury to deceased Niaz. The specific allegation against him is that he caused a firearm injury to injured Suhail. Significantly, the said injured witness, when examined before the learned trial Court, did not identify the present applicant as the person who caused the injury. Thus, at this stage, the fresh material available on record creates a circumstance requiring further probe into the identity and role of the applicant.

7. At the bail stage, where the material gives rise to a reasonable doubt regarding the involvement of an accused, such circumstance may legitimately be considered while determining his entitlement to bail. The Honourable Supreme Court in *Zigham Ashraf v. The State and others* (2016 SCMR 2018) has emphasized that due care and caution must be exercised where the liberty of an accused is sought to be curtailed, particularly keeping in view that subsequent acquittal after prolonged incarceration cannot adequately repair the prejudice suffered by such person.

8. Moreover, the accused sought bail on the ground that he had remained in custody since 21.04.2022, yet the trial had not concluded. No plausible explanation was forthcoming for such inordinate delay, nor was any sufficient justification offered for the prosecution's failure to produce its witnesses and facilitate expeditious conclusion of the trial. Consequently, owing to reckless conduct and ineffective case management, the accused continued to suffer prolonged incarceration without any meaningful progress in the trial. The Honourable Supreme Court of Pakistan in *Fayaz Khan v. Mohsin Shah and another*, 2026 SCMR 1076, held as under:

11. *In the case of Mrs. Faryal Arif Latif v. Mr. Arif Latif* (2024 SCP 417= 2025 SCMR 395), one of us, discussed the hardship, caused due to inordinate and unwarranted delays in civil and criminal cases both with its aftermath and held that the function of the court is to administer substantial justice between the parties

after providing ample opportunity for hearing which is a significant component and virtue of a fair trial, whereas the procedure serves as a machinery with the object of facilitating and not obstructing the administration of justice. Another undeniable reality is that the number of cases in the court docket is increasing exponentially due to the surge in litigation across diverse fields. Every judge is a master of his own docket, and sanguine to the huge backlog in almost every court of this country, it is high time for courts to maintain proper in-built Case Management Systems across the board, even at the grassroots level. If a proper Case Management System is developed and each court self-organizes its own docket rationally and classifies timelines for each stage in the proceedings step-by-step and strictly adheres to it, with the parties and their advocates also adhering to it, then the likelihood or probability of inordinate delays or impediments in the disposal of cases will be much lessened and moderated. This also underscores the eminence of timely and efficacious dispensation of justice, because if the judicial system fails to impart justice timely, it creates exasperation and disgruntlement in the public at large which also results in a loss of faith in the entire judicial system of the country and widespread criticism that court cases linger on for years and decades. The accused and the victims of crimes have to wait several years to get justice, which causes serious sufferings and distress.

9. For the foregoing reasons, a case for grant of post-arrest bail has been made out. Accordingly, this Bail Application is allowed. The applicant Muhammad Irfan is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

J U D G E