

IN THE HIGH COURT OF SINDH CIRCUIT COURT
LARKANA

Criminal Bail Application No. S-257 of 2026

Applicant : Ghulam Hussain @ Khan son of Mir
Hazar Hakro, *through* Mr. Ashfaq
Hussain Abro, Advocate.

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

Date of Hearing : 07.09.2026
Date of Order : 07.09.2026.

ORDER

Ali Haider 'Ada' J.- Through the instant Bail Application, the applicant seeks post-arrest bail in Crime No.14 of 2026, registered at Police Station Chak, District Shikarpur, for offences punishable under Sections 302, 147, 148 and 404, PPC. The FIR was lodged by complainant Imdad Ali, wherein the date of occurrence is mentioned as 09.04.2026, whereas the FIR was registered on 07.05.2026. Prior thereto, the applicant approached the learned trial Court for bail, however, his Bail Application No.687 of 2026 was dismissed vide order dated 29.05.2026.

2. The prosecution case, in brief, is that the deceased, namely Adab, was travelling with the accused persons in a rickshaw being driven by the deceased himself. When the deceased did not return, the complainant party approached the accused persons, who allegedly kept them under assurances regarding his whereabouts. Subsequently, the complainant party came to know through social media that the dead body of the deceased had been received at an Edhi Centre, whereafter the requisite formalities were completed on 16.04.2026.

3. Learned counsel for the applicant contends that the occurrence was unseen and no witness has claimed to have witnessed the actual commission of the murder. He further points out that there is an unexplained delay of almost one month in

registration of the FIR. It is also contended that although the deceased was allegedly a rickshaw driver, the prosecution has failed to establish any motive or previous enmity on the part of the applicant which could furnish a reason for committing his murder. Learned counsel further submits that the information allegedly received through social media is weak in nature and that the dead body was subsequently received by the complainant party from the Edhi Centre. According to him, these circumstances require further inquiry within the meaning of Section 497(2), Cr.P.C. Reliance is placed upon 2026 SCMR 1076 and 2017 SCMR 61.

4. On the other hand, the complainant has placed reliance upon the learned Law Officer. Learned Law Officer submits that co-accused Ali Ahmed alias Sudheer and Munwar Ali had approached this Court through Bail Application No.303 of 2026 seeking pre-arrest bail, which was dismissed on merits vide order dated 30.06.2026. He submits that although the occurrence itself was unseen, the prosecution has brought on record last-seen evidence connecting the accused persons with the deceased prior to the occurrence. He further submits that the role attributed to the present applicant is substantially similar to that of the co-accused whose bail application was dismissed by this Court. He, therefore, contends that no further concession is warranted and prays for dismissal of the instant application.

5. In rebuttal, learned counsel for the applicant submits that pre-arrest and post-arrest bail operate on different considerations and that the application of the present applicant was filed on 04.05.2026, whereas the co-accused approached this Court subsequently on 19.06.2026. He, therefore, submits that the order passed in the case of the co-accused cannot, by itself, determine the present applicant's entitlement to post-arrest bail. He further contends that the case of the co-accused was considered primarily with reference to the question of mala fide, whereas the present application is only required to be examined from the perspective of further inquiry under Section 497(2), Cr.P.C. He accordingly prays for grant of bail.

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

7. It is correct that pre-arrest and post-arrest bail are distinct remedies and are governed by different considerations. However, the question of further inquiry under Section 497(2), Cr.P.C. is relevant to the determination of bail even in a pre-arrest matter, where the facts and circumstances so warrant. Thus, the mere distinction between the two remedies does not, by itself, render the material available against the accused irrelevant. In the present case, the order passed by this Court in Bail Application No.303 of 2026 shows that the bail plea of co-accused Ali Ahmed alias Sudheer and Munwar Ali was discussed on merits and was declined. More importantly, the said order reflects that sufficient material was available on record connecting the said accused with the alleged occurrence, and the role attributed to them appears to have substantial similarity with that attributed to the present applicant.

8. The contention that the occurrence was unseen also requires consideration in its proper perspective. An unseen occurrence merely means that no witness claims to have witnessed the actual commission of the murder. It does not, however, render the prosecution case incapable of being established through circumstantial evidence. Likewise, the last-seen circumstance is a distinct piece of circumstantial evidence, whereby the prosecution seeks to establish that the deceased was last seen alive in the company or proximity of the accused shortly before his death. Its evidentiary value depends upon the reliability of the witness, the proximity of time and place, and the surrounding circumstances. Such evidence is required to be assessed in conjunction with the other circumstances forming the chain of prosecution evidence.

9. At the bail stage, this Court is required to undertake a tentative assessment of the material available on record and is not expected to conduct a deeper appreciation of evidence or finally determine the credibility and probative value of each circumstance. The provisions of the Qanun-e-Shahadat Order, 1984 concerning relevancy of facts,

including facts connected with the occurrence and forming part of the same transaction, have to be appreciated in the context of the evidence available on record.

10. The offence under Section 302, PPC carries the punishment of death or imprisonment for life and, therefore, falls within the prohibitory clause of Section 497(1), Cr.P.C. Although the seriousness of the offence alone is not sufficient to deny bail, where the material available on record tentatively connects the accused with the commission of the offence and the case does not, at this stage, bring the accused within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C., bail cannot be granted as a matter of course.

11. Consequently, no case for grant of post-arrest bail has been made out at this stage. The instant Bail Application, is accordingly dismissed.

J U D G E