IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Crl. Bail Application No.S-495 of 2026

(Akbar Ali vs. The State)

Applicant	:	Akbar Ali son of Allah Dino Through Mr. Afzal Karim Virk, Advocate.
Complainant	:	Gul Muhammad son of Ali Muhammad Through Mr. Mir Muhammad Nohri advocate.
Respondent	:	The State Through Mr. Neel Parkash, D.P.G.
Date of hearing	:	25.11.2026
Date of Order	:	25.11.2026

O R D E R

ZULIFQAR ALI SANGI, J: Through the instant criminal bail application, applicant/accused Akbar Ali son of Allah Dino seeks post-arrest bail in Crime No.17 of 2025, registered at Police Station Dhoro Naro, for offences punishable under Sections 302, 324, 114, 337-A(i), 337-F(i), 337-F(vi) and 504 PPC. It transpires that the applicant's earlier application for post-arrest bail was dismissed by the learned Additional Sessions Judge-I, Umerkot, vide order dated 25.08.2026, passed in Criminal Bail Application No.687/2026.

2. Briefly stated, the prosecution case, as disclosed in the FIR, is that on the instigation of co-accused Muhammad Ibrahim, the present applicant/accused Akbar Ali, along with co-accused Anwar Ali, allegedly inflicted hatchet blows upon the head of injured Mushtaque with the intention to commit his murder. It is further alleged that co-accused Fateh Ali inflicted a hatchet blow upon injured Mir Muhammad with the intention to kill him, whereas co-accused Fazal Rehman caused a lathi blow to Mir Muhammad on his arm, and co-accused Muhammad Hassan inflicted a hatchet blow upon Mst. Hanifan on her head. Consequently, all the injured fell to the ground. Upon hearing the cries of the complainant, persons from the neighbourhood attracted to the scene, whereupon the accused persons allegedly fled towards their respective houses. The complainant thereafter shifted the injured to the hospital, where injured Mushtaque, owing to the seriousness of his condition,

was referred to Civil Hospital, Hyderabad, and ultimately succumbed to his injuries after four days of treatment.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the case owing to previous enmity between the parties. He submitted that the applicant was neither present at the place of occurrence nor had any connection with the alleged incident. He further argued that the FIR was lodged after an unexplained delay of approximately four days, which, according to him, provides sufficient opportunity for deliberation, consultation and fabrication of the prosecution story. It was further contended that all the prosecution witnesses are closely related to the complainant and no independent witness from the locality has been associated with the investigation. Learned counsel maintained that no specific overt act, except an allegation of instigation, has been attributed to the applicant, nor has any particular injury been assigned to him. He further pointed out alleged discrepancies between the ocular and medical evidence and contended that the applicant is entitled to the concession of bail on the principle of consistency, as certain co-accused, namely, Fateh Ali, Ibrahim and Muhammad Hassan, have already been granted bail. In support of his contentions, learned counsel relied upon the cases of ZULQARNAIN HAIDER alias Zain v. The State and another (2025 SCMR 1457), MUHAMMAD UMAR WAQAS BARKAT ALI v. THE STATE and another (2023 SCMR 330), SAAD ZIA v. THE STATE and others (2023 SCMR 1898), MUHAMMAD AMEEN v. THE STATE and another (2022 SCMR 1444), SOHAIL AKHTAR v. THE STATE through P.G. Punjab and another (2022 SCMR 547) and KHIZAR HAYAT v. THE STATE and others (2024 SCMR 1605) and prayed for grant of bail.

4. Conversely, learned counsel for the complainant opposed the grant of bail and contended that the applicant is specifically nominated in the FIR with a distinct and substantive allegation of having, along with co-accused Anwar Ali, inflicted hatchet blows upon the vital part of the body of injured Mushtaque, who subsequently succumbed to the injuries sustained during the occurrence. He submitted that the delay in lodging the FIR has been adequately explained by the complainant and, therefore, cannot be considered sufficient to extend the concession of bail to the applicant. He further contended that the alleged crime weapon, i.e., hatchet, has been recovered from the possession of the applicant during investigation, thereby lending corroboration to the prosecution version. Learned counsel further argued that the role

attributed to the applicant is materially distinguishable from that of the co-accused who have been granted bail, as none of them is alleged to have inflicted injuries upon the deceased. Consequently, the principle of consistency is not applicable to the case of the present applicant. He prayed for dismissal of the bail application. Learned D.P.G. also opposed the grant of bail.

5. I have heard learned counsel for the applicant, learned counsel for the complainant and learned D.P.G. for the State, and have carefully examined the material available on record.

6. Tentative assessment of the material available on record reveals that the applicant is specifically nominated in the FIR and is attributed a direct and active role in the commission of the alleged offence. The allegation against the applicant is not merely that of presence at the place of occurrence or passive association with the other accused; rather, he is alleged to have, in concert with co-accused Anwar Ali, inflicted hatchet blows upon the head, being a vital part of the body, of injured Mushtaque, who subsequently succumbed to his injuries during treatment at Civil Hospital, Hyderabad. The nature of the weapon allegedly employed, the part of the body targeted and the ultimate consequence of the assault are circumstances which, at this stage, cannot be disregarded while considering the entitlement of the applicant to the concession of post-arrest bail.

7. The contention that the applicant has been implicated merely on account of previous enmity, or that the prosecution witnesses are related to the complainant, does not, by itself, furnish a ground for grant of bail where the accused is specifically nominated and the allegation against him is supported by the material collected during investigation. Relationship of the witnesses with the complainant is not, in itself, a disqualification rendering their testimony unreliable, particularly at the bail stage, when the Court is required to undertake a tentative assessment of the available material rather than a deeper appreciation of the evidence, which is the exclusive domain of the trial Court.

8. The plea regarding delay in lodging the FIR, alleged discrepancies between ocular and medical evidence, and the question as to whether the applicant was actually present at the place of occurrence or had participated in the commission of the offence are matters which require examination in the light of the evidence to be produced during trial. At this stage, the explanation furnished by the complainant regarding the

delay, coupled with the specific allegation of assault upon the vital part of the deceased's body, does not persuade this Court to treat the matter as falling within the ambit of further inquiry under Section 497(2) Cr.P.C. so as to extend the concession of bail to the applicant.

9. The record further reflects that the alleged weapon of offence, namely, hatchet, has been recovered from the possession of the applicant during investigation. Although the evidentiary value and admissibility of such recovery are matters to be determined at trial, the same, when considered alongside the specific role attributed to the applicant and the nature of the alleged assault, prima facie lends support to the prosecution case and cannot be ignored at this stage of proceedings.

10. So far as the plea of consistency is concerned, it is settled principle of law that the rule of consistency is not to be applied mechanically or in isolation; rather, it is dependent upon similarity of roles, allegations and circumstances attending the cases of the accused seeking bail. An accused cannot claim bail as a matter of right merely because other co-accused has been granted such concession, particularly where the role attributed to him is distinct, more specific or comparatively graver. In the instant case, the applicant is alleged to have directly participated in inflicting hatchet blows upon the head of the deceased, whereas the co-accused referred to by learned counsel for the applicant have been granted bail in circumstances and roles which, as reflected from the available material, are not identical to that of the present applicant. Therefore, the principle of consistency does not extend to the applicant in the manner claimed by his learned counsel.

11. The alleged offence under Section 302 PPC carries the punishment of death or imprisonment for life and falls within the prohibitory clause of Section 497 Cr.P.C. The material available on record, when examined tentatively, prima facie connects the applicant with the commission of the alleged offence. The nature and gravity of the accusation, the specific role attributed to the applicant, the alleged use of a hatchet against a vital part of the body of the deceased and the material collected during investigation collectively do not warrant extending the concession of bail to the applicant at this stage. The applicant has, therefore, failed to make out a case falling within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. Consequently, the instant post-arrest bail application is **dismissed**.

12. Needless to observe that the observations made hereinabove are tentative in nature, confined strictly to the determination of the instant bail application and shall not prejudice the merits of the case or influence the learned trial Court in any manner while deciding the case in accordance with law.

JUDGE