THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Application No. S-472 of 2026

[Mumtaz Khoso Vs. The State]

Applicant	**:**	Through Mr. Habibullah G. Ghouri, Advocate
The State	**:**	Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh
Date of Hearing	**:**	**16-11-2026**
Date of Order	**:**	**16-11-2026**

O R D E R

ARBAB ALI HAKRO, J. - Through this application under Section 497 Cr.P.C., the applicant, Mumtaz Khoso, seeks post-arrest bail in Crime No. 07 of 2025 of Police Station Mari, District Shikarpur, registered under Sections 302, 114, 148 and 149 PPC. His application before the learned 1st Additional Sessions Judge, Shikarpur, was dismissed on 21.05.2026.

2. The FIR was lodged on 19.06.2025 by Moula Bux Khoso. His case is that his son, Sajid Ali, aged about 22 years, was married to the daughter of the accused Imamuddin, and the couple used to quarrel; that at about 0100 hours on 17.06.2025, while he, his son, his relative Hazar Khan, and his brother-in-law Ghulam Abbas were going to their fish farm, they saw, by torchlight, Imamuddin with a hatchet, Arz Muhammad alias Toto with a pistol, the applicant with a gun, Zulfiqar with a rope, and three unidentified men; that, on Imamuddin's instigation, the applicant and an unidentified man held Sajid Ali by the arms, while Arz Muhammad and Zulfiqar strangled him with the rope and Imamuddin struck him with the hatchet; and that the accused then hung the body from a tree by the drawstring of his shalwar and made the complainant party keep their heads down until morning, when the police were informed through the village elders.

3. Learned counsel for the applicant submits that the FIR was lodged two and a half days after the occurrence; that three witnesses who claim to have watched the murder by torchlight and then sat with bowed heads until

morning cannot be believed; that the deceased in truth took his own life; that no shot was fired, though the accused were armed; that co-accused Bashir Ahmed, assigned the same role of holding the deceased, was admitted to bail by the trial court on 16.09.2025, so that the applicant is entitled to the same on the rule of consistency; and that the challan has been submitted.

4. Learned D.P.G. opposes the application on the ground that the applicant is named in the FIR by three eyewitnesses with a specific role in a murder committed on an avowed motive, the offence carries the death penalty and the co-accused was admitted to bail on a ground peculiar to him.

5. Heard and perused the record.

6. The applicant is named in the FIR itself, not in any later statement, by the father of the deceased and two other witnesses who say they saw him by torchlight at close quarters. The act attributed to him is specific: holding the deceased by the arms while two others strangled him and a third struck him with a hatchet. That is not the role of a bystander; it is participation in the very act of killing, and on a tentative assessment it furnishes reasonable grounds for believing him guilty of an offence under Section 302 read with Section 149 PPC, for which the motive, the matrimonial quarrel between the deceased and the daughter of the applicant's father, is stated in the FIR itself.[1] The rule of consistency does not favour the applicant. Bashir Ahmed was admitted to bail because his name appeared neither in the FIR nor in the first statements of the witnesses, but only in a further statement recorded twenty-six days later, with no source disclosed; the applicant shares none of that. Similarity of role does not create parity where the evidence against the two accused differs in kind. The delay in lodging the FIR is accounted for on its face by the recovery of the body, the post-mortem, and the funeral, with the police informed through the village elders the same morning. Whether three men could have been kept silent through the night, and whether the death was a suicide, as the defence asserts, are matters going to the weight of the eyewitness account and the medical

[1] *Muhammad Aslam v. The State* 2023 SCMR 2056; *Khair Muhammad v. The State* 2021 SCMR 130.

evidence; they call for the recording of evidence and cannot be resolved in the applicant's favour at this stage.[2]

7. The applicant has not made out a case of further inquiry under section 497(2) Cr.P.C. These are the reasons for the short order dated 16.11.2026, by which the application was dismissed. The trial court is expected to proceed with the trial expeditiously.

8. The observations above are tentative and shall not influence the trial court in deciding the case on its merits.

JUDGE

Zulfiqar

[2] *Zaigham Ashraf v. The State* 2016 SCMR 18.