

**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR**

Cr Bail Application No.S-91 of 2025

Applicant(s): **i. Nazeer Ahmed alias Nazeer, ii. Nadir Ali alias Nadir and iii. Abdul Aziz alias Aziz** are present along with their counsel Mr. Ubedullah Ghoto, Advocate.

Respondent: The State, through Syed Sardar Ali Shah, Additional Prosecutor General.

Akhtiar Ahmed, brother of Through Mr. Abdul Jabbar Siyal,
Deceased. Advocate.

Date of hearing: **24-02-2025**

Date of decision: **24-02-2025**

ORDER

RIAZAT ALI SAHAR, J- Through the captioned Criminal Bail Application, the applicants, Nazeer Ahmed alias Nazeer, Nadir Ali alias Nadir, and Abdul Aziz alias Aziz, seek pre-arrest bail in Crime No. 246 of 2024, registered at Police Station Ghotki, for offences punishable under Sections 302, 311, 147, 148, and 149 PPC.

2. Previously, the applicants' bail plea was declined by the learned Additional Sessions Judge (MCTC), Ghotki, vide order dated 02.10.2024.

3. The brief facts of the prosecution case, as narrated in the FIR lodged by the complainant, SIP Allah Dad Chachar, are that on the day of the incident, he, along with his staff, all in uniform and equipped with government-issued arms and ammunition, left the police station in an official vehicle for patrolling within their jurisdiction, as per *Roznamcha* Entry No. 7-1000 hours dated 19.06.2024. During the course of patrolling,

the complainant party reached NHW Shelton Bypass, Ghotki, at approximately 10:40 hours, where they received intelligence that accused Nazeer Ahmed Ghoto, along with his associates, intended to commit the murder of his paternal aunt, Mst. Hazooran, wife of Abdul Majeed Ghoto, aged approximately 55 years, on the allegation of *Karap* (illicit relations) at the residence of her son-in-law, Muhammad Ramzan Ghoto. Upon receiving this information, the complainant informed his staff and proceeded towards the identified location. At approximately 11:00 hours, upon reaching the house of Muhammad Ramzan Ghoto in the village near Jalal Ghoto, the complainant party heard the sound of gunfire. They immediately stopped their vehicle and entered the house, where they witnessed accused persons, namely, (1) Nazeer, (2) Nadir, (3) Aziz, son of Nabi Bux, all by caste Ghoto, along with two unidentified armed individuals, present inside the house. The complainant party also observed a woman lying on the ground with visible firearm injuries, who had succumbed to her wounds. Upon seeing the police, the accused fled the scene by scaling the walls of the house, taking advantage of the nearby crops and dense vegetation. Several women were present near the deceased and were crying. Upon inquiry, they disclosed that the accused, namely, Nazeer Ghoto, Nadir Ghoto, Aziz Ghoto, and their accomplices, had fired upon Mst. Hazooran with pistols, accusing her of *Karap* with one Inam, son of Muhammad Siddique Ghoto. Upon examining the body, the complainant party observed a firearm injury on the left side of the deceased's abdomen, which had exited through her chest, causing her death. Subsequently, the complainant party transported the deceased's body to Taluka Hospital, Ghotki, where a post-mortem examination was conducted, after which the body was handed over to the legal heirs. Despite being asked to register the FIR, the legal heirs of the deceased refused to do so. Consequently, the complainant registered the present FIR on behalf of the State.

4. The learned counsel for the applicants contends that the applicants are innocent and have been maliciously implicated in an incident that was neither witnessed nor directly attributed to them. It is submitted that the women who were present near the deceased's body disclosed the names of the present applicants; however, the complainant, with *mala fide* intentions, deliberately omitted their names from the FIR. It is further argued that all the prosecution witnesses are police officials and, therefore, interested witnesses. Additionally, there is an unexplained delay of nearly five hours in the lodgement of the FIR, which casts serious doubt upon the prosecution's case. The learned counsel contends that the complainant has falsely implicated the applicants in a fabricated and orchestrated story at the behest of the police. Thus, the case against the applicants falls within the ambit of *further inquiry*. The learned counsel further submits that one Akhtiar, the brother of the deceased, Mst. Hazooran, has filed an affidavit stating that he has no objection to the grant of pre-arrest bail to the applicants. Lastly, he prays for the grant of pre-arrest bail to the applicants.

5. On the other hand, the learned counsel appearing on behalf of Akhtiar, the brother of the deceased, recorded his *no objection* to the grant of bail. However, the learned Additional Prosecutor General has vehemently opposed the grant of pre-arrest bail on the grounds that the applicants are specifically nominated in the FIR and are accused of committing the murder of an innocent elderly woman under the pretext of the so-called allegation of '**Karap**'. The learned Additional Prosecutor General further argued that the *no objection* extended by Akhtiar, the brother of the deceased, does not constitute a valid ground for the grant of pre-arrest bail. Additionally, as per the police diaries, the applicants did not join the police investigation, despite remaining on interim pre-arrest bail, whether granted by the trial Court or by this Court. In view of the foregoing, the learned Additional Prosecutor General submitted that the applicants are not entitled to the concession of pre-arrest bail.

6. Having heard the learned counsel for the respective parties and meticulously examined the record, it is evident that the applicants are **nominated in the FIR**, as disclosed by the women who were present beside the deceased's body at the time of the alleged incident. The prosecution's case alleges that an innocent, elderly woman was brutally killed by the applicants on the purported accusation of **Karo Kari (honour-related killing)**. Furthermore, the applicants have failed to assert any **ill-will, animosity, or mala fide intent** on the part of the complainant to suggest that they have been falsely implicated in this heinous offence. The charge against them pertains to an offence punishable by capital punishment, thereby squarely falling within the prohibitory clause of **Section 497 Cr.P.C.** Given the gravity of the offence and the absence of any cogent reason to infer false implication, the case does not warrant the grant of extraordinary relief in the form of pre-arrest bail.

7. Insofar as the affidavit filed by **Akhtiar**, the brother of the deceased **Mst. Hazooran**, is concerned, the said Akhtiar has appeared before this Court in person. Upon query, he has categorically stated that while he maintains that the applicants are the actual perpetrators of his sister's murder, he has nonetheless submitted the affidavit **solely on account of the applicants' beseeching upon the Holy Quran**, thereby extending *no objection* to the grant of pre-arrest bail in their favour. It is pertinent to underscore that the **heinous offence of murder is a non-compoundable offence**, particularly in cases where *fasad-fil-arz* is attracted. An affidavit expressing no objection to the grant of bail does not, in itself, constitute a valid compromise under the law, nor does it conclusively establish that the complainant has voluntarily absolved the accused. Rather, the circumstances suggest that the affidavit may have been obtained under **undue pressure and out of reverence for the Holy Quran**, which cannot serve as a legally tenable basis for the grant of pre-arrest bail. Furthermore, as per the police diaries, the applicants **failed to join the police**

investigation despite being on **interim pre-arrest bail** initially granted by the trial Court, which was subsequently recalled. Even after this Court granted interim pre-arrest bail to the applicants vide order dated **03-02-2025**, the police diaries do not reflect their appearance before the investigating authorities on a **single occasion**, thereby demonstrating a **wilful avoidance of the investigation process**. Such conduct negates any claim of bona fide and reinforces the apprehension that the applicants have deliberately evaded the due course of law.

8. In view of the foregoing discussion and upon a tentative assessment of the material available on record, it is evident that the applicants have failed to make out a case for the grant of pre-arrest bail. Accordingly, the instant Criminal Bail Application stands **dismissed**, and the **interim pre-arrest bail earlier granted to the applicants by this Court vide order dated 03.02.2025 is hereby recalled**.

9. The observations made herein are tentative in nature and shall not prejudice the case of either party at trial.

J U D G E

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