

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No.S-787 of 2024

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
-----------------	-------------------------------

For hearing of bail application

Date of hearing **27.02.2025**

Mr. Athar Hussain associate of Sheeraz Fazal, Advocate for applicant.

Syed Sardar Ali Shah, Addl. Prosecutor General.

ORDER

Riazat Ali Sahar, J. Through the present bail application, the applicant, Abdul Aziz, son of Mehran Khan Bughti, seeks pre-arrest bail in connection with Crime No.25 of 2022, registered at Police Station Kot Laloo. The alleged offences fall under Sections 302, 324, 148, and 149 of the Pakistan Penal Code.

2. The previous bail application of applicant was declined by the learned Additional Sessions Judge-I/(MCTC), Khairpur, through an order dated 24.07.2024, in Criminal Bail Application No.2103 of 2024.

3. According to the prosecution, the complainant, Manzoor Ahmed Bughti, lodged a First Information Report (FIR) at Police Station Kot Laloo, alleging that his father, Suleman Khan Bughti, who operated a motorcycle showroom at Mangia Nako, had longstanding property disputes with one Challa Khan, which led to tensions between the parties. On 24.05.2022, at approximately 11:40 AM, the complainant,

his father, Suleman Khan, and nephew Muhammad Saleem, his son Juwan, and his cousin Qabil were present at Super Al-Madina Hotel near Mangia Nako on Mehran National Highway when a white-coloured vehicle arrived. Five individual alighted from the car, armed with pistols. The complainant and his witnesses identified three of the accused as Challa Khan, Ali Dost, and Eid Muhammad, alias Eido, while two others remained unidentified at that time. Upon arrival, the accused Challa Khan allegedly fired a direct shot at the complainant's father, Suleman Khan, from behind, causing the bullet to pass through his chest. The accused Eid Muhammad alias Eido also fired at Suleman Khan, hitting him in the back, with the bullet exiting through his abdomen. Another unidentified assailant fired at Suleman Khan, striking him beneath his right armpit. Additionally, the accused Challa Khan allegedly fired upon the complainant's cousin, Qabil Khan, injuring his right-hand fourth finger. The complainant immediately transported his critically injured father to the hospital; however, he succumbed to his injuries en route. Subsequently, the complainant approached the police and lodged the FIR.

4. Mr. Athar Hussain, an associate of Mr. Sheeraz Fazal, learned counsel for the applicant, has contended that the applicant has been falsely implicated in the present case due to personal enmity and with mala fide intentions. It has been argued that the applicant's name is not mentioned in the FIR, nor is any specific role attributed to him in the alleged offence. His name surfaced for the first time in a supplementary statement recorded three months after the incident,

thereby raising serious doubts regarding his involvement. The learned counsel further submitted that the question of liability can only be determined at the trial stage after the recording of evidence. He emphasized that the investigation has already been concluded, and the case has been formally submitted before the trial Court; hence, the applicant is not required for any further inquiry or investigation. To support his contention, the learned counsel placed reliance on *Ghulam Hyder v. The State (2021 SCMR 1802)* and *Qurban Ali v. The State and others (2017 SCMR 279)*.

5. Conversely, Syed Sardar Ali Shah, learned Additional Prosecutor General representing the State, has conceded the bail application on the grounds that the applicant's name is not explicitly mentioned in the FIR, nor is he directly attributed with any role in the firing that resulted in the fatal injuries to the deceased. However, the prosecution maintains that his name subsequently emerged in the supplementary statement of the complainant. It was further argued that, at this stage, a deeper appreciation of the evidence is not permissible while deciding a bail application. In support of his arguments, reliance was placed on *Haider Ali v. The State and others (2021 S C M R 629)*.

6. Having heard the arguments of both parties and upon perusal of the case record, it is an admitted fact that the dispute between the complainant's party and the accused stemmed from a longstanding property issue. Moreover, the applicant's name does not appear in the FIR, and no specific role has been assigned to him in the commission of

the alleged crime. His involvement was only mentioned in the complainant's supplementary statement, recorded on 21.08.2022__more than three months after the occurrence of the incident.

7. In the case of *Haider Ali v. The State and others (supra)*, the Honourable Supreme Court has held that when an accused is not named in the FIR and is subsequently implicated in a supplementary statement, such a divergent stance of the complainant casts doubt upon the prosecution's case, thereby bringing it within the ambit of further inquiry under Section *497(2) of the Criminal Procedure Code (Cr.P.C.)*. Considering the circumstances and in light of the legal precedents set by the Honourable Supreme Court, it is evidence that the accusation against the applicant necessitate further inquiry. Accordingly, the present bail application is **allowed**, and the interim pre-arrest bail granted to the applicant, Abdul Aziz Bughti, vide order dated 18.10.2024, is **hereby confirmed** on the same terms and conditions. The applicant is directed to ensure his continued presence before the trial Court until the final adjudication of the case.

7. It is imperative to clarify that the observations made in this order are purely tentative in nature and shall not, in any manner, prejudice the trial Court in deciding the case on its own merits based on the evidence presented before it.

Bail application is disposed of in the above terms.

*Ihsan/**

J U D G E