

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
LARKANA**

Criminal Bail Application No.S-138 of 2025

Applicant : Aijaz alias Allahando s/o Abdul Khalique Ghunio
Through Mr. Abid Hussain Qadri, Advocate

Complainant : Ghulam Yaseen s/o Illahi Bux Ghunio,
Through Mr. Safdar Ali Ghouri, Advocate

The State : Through Mr. Nazir Ahmed Bhangwar, DPG.

Date of hearing: 16.05.2025

Date of Order: 16.05.2025

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ORDER

Jan Ali Junejo, J:- The applicant, Aijaz alias Allahando Ghunio, seeks post-arrest bail in FIR No. 111/2024 (PS Karampur) registered under Sections 302, 337-A(i), 337-F(i), 337-H(ii), 147, 148, and 149 PPC. The learned Additional Sessions Judge, Kashmore, dismissed his initial bail application on 21.01.2025, observing that the applicant facilitated the principal accused through aerial firing and failed to establish grounds for further inquiry.

2. Brief facts of the case as per contents of the FIR are that on 07-09-2024 at around 2:00 PM, the complainant Ghulam Yaseen, along with his sister Zaibunisa and cousins Hizabullah and Murtaza, was attacked by a group of nine identified accused—namely Abid (armed with a pistol), Khadim (lathi), Shabir (hatchet), Arslah (lathi), Aijaz @ Allahando, Abbas Ali, and Karamullah (all armed with guns)—and two unidentified individuals, armed with guns. The motive behind the attack was a dispute over *Karap* and false accusations of *Karo-Kari* allegedly leveled by the accused. During the incident, Abid fatally shot Zaibunisa in the chest, Shabir struck Murtaza on the head with a hatchet, and Arslah hit Hizabullah on the head with a lathi, while the remaining accused

resorted to aerial firing to spread fear. Upon hearing the cries and gunshots, co-villagers arrived, prompting the assailants to flee. As a result, Zaibunisa died on the spot, and Murtaza and Hizabullah sustained serious injuries. The incident was reported at P.S. Karampur, and legal proceedings were initiated under Sections 302, 337-A(i), 337-F(i), 337-H(ii), 147, 148, and 149 of the Pakistan Penal Code.

3. The learned counsel for the Applicant, Aijaz alias Allahando Ghunio, argued that the applicant has been falsely implicated in the case due to malafide intentions and ulterior motives on the part of the complainant. He emphasized that there is no specific role attributed to the applicant except for the allegation of aerial firing, which neither caused any injury to the deceased nor to any other person present at the spot. The counsel highlighted the inordinate and unexplained delay of one day in lodging the FIR, despite the short distance between the place of incident and the police station, suggesting consultation and deliberation before implicating the applicant. He further contended that all the prosecution witnesses are closely related to the complainant, making their testimony partisan, and that no independent or neutral witness has been cited despite the incident occurring in a populated area during daytime. The counsel maintained that there is no direct or indirect evidence connecting the applicant to the commission of the principal offence, and that the case against him requires further inquiry within the meaning of Section 497(2), Cr.P.C. He, therefore, prayed for the grant of bail to the applicant.

4. On the other hand, the learned counsel for the Complainant, duly supported by the learned Deputy Prosecutor General, vehemently opposed the bail application. They submitted that the applicant is specifically nominated in the FIR and is alleged to have been armed at the scene, actively participating by resorting to aerial firing, which facilitated the principal accused in committing

the murder and created terror among the victims. They argued that the role of the applicant, though described as aerial firing, was integral to the common object of the unlawful assembly, and that his actions enabled the commission of the heinous offence. The prosecution maintained that the statements of the complainant and other witnesses under Section 161 Cr.P.C. support the version of events and connect the applicant with the crime. They further asserted that the gravity of the offence, the clear involvement of the applicant, and the need to prevent the possibility of influencing witnesses or tampering with evidence warranted the dismissal of the bail application

5. I have carefully considered the arguments presented by the learned counsel for the Applicant, the learned counsel for the Complainant, and the learned DPG for the State. Additionally, I have conducted a tentative assessment of the evidence available on record, which is appropriate at this stage of the bail proceedings. The record indicates that the Applicant's alleged involvement is limited to aerial firing, an act that did not directly result in injuries or death. According to the prosecution's version, the fatal injury leading to Zaibunisa's death is attributed to a gunshot fired by Abid, while the injuries sustained by Murtaza and Hizabullah are due to blows from other accused individuals. The Applicant is characterized as a facilitator for the co-accused; thus, the question of *mens rea* concerning the Applicant remains to be determined during the trial. This aligns with the precedent set in the case of ***Muhammad Irfan vs. The State and others (2014 SCMR-1347)***, wherein the Honourable Supreme Court of Pakistan has held that;

“Accused was not alleged to have caused any firearm injury either to the deceased or the eye-witnesses---Deceased received only one firearm injury, which was attributed to co-accused---Question of accused's guilt required further inquiry in such circumstances---Accused was granted bail accordingly.”

6. The Applicant's peripheral role, characterized by aerial and ineffective firing, combined with the absence of causation for any injuries, positions this case as one requiring further inquiry under Section 497(2) Cr.P.C. In similar circumstances, the Supreme Court of Pakistan has held in the case of ***Jahanzeb and others vs. State through A.G.Khyber Pakhtunkhwa Peshawar and another (2021 SCMR-63)***, wherein the Honourable Supreme Court of Pakistan has observed that:-

“Allegation against the accused persons was that they resorted to indiscriminate firing, however, the deceased sustained only a single shot whereas none of the prosecution witnesses sustained even a scratch---Prosecution did not claim that witnesses escaped from the firing of the accused persons due to some hurdle or safety measure--Occurrence had taken place in open and if there would have been any intent on the part of the accused persons, there was nothing which could restrain them from committing the occurrence on a broader spectrum---During the course of investigation recovery of four empties was made from the spot but as no weapon was recovered from the accused persons during the course of investigation, mere recovery of empties would be a question best resolved by the Trial Court after recording of prosecution evidence--No overt act was ascribed to the accused persons except the allegation of ineffective firing, which too was not supported by recovery of any weapon---Case of the accused persons was one of further inquiry falling within the ambit of S. 497(2), Cr.P.C. entitling them for the concession of bail---Petition for leave to appeal was converted into appeal and allowed and accused persons were granted bail.”

7. For the reasons enumerated above, the bail application is hereby allowed and the Applicant shall be released on bail upon his furnishing surety in the sum of Rs.1,00,000/-, and P.R bond in the like amount, to the satisfaction of learned trial Court.

8. It is clarified that the observations made in this Order are limited to the purpose of this decision and shall not prejudice the merits of the case during trial.

JUDGE