

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
MIRPURKHAS**

Crl. Bail Application No.S-98 of 2025

Applicants: 1. Ali Raza son of Nasurllah,
2. Ghulam Murtaza son of Nasurllah.

Respondent: The State.
Through Mr. Neel Parkash, D.P.G.

Complainant: Muhammad Aslam son of Haji Mir Khan,
Through Mr. Nabi Bux Narejo, Advocate.

Date of hearing: 12.08.2025

Date of order: 12.08.2025

O R D E R

Amjad Ali Sahito, J: Through this Bail Application, the applicants/accused seek pre-arrest bail in Crime No.35/2006 for offence under sections 302 and 34 P.P.C registered at PS Bodar Farm, after their bail plea has been declined by the learned Sessions Judge, Umerkot vide order dated 16.04.2025.

2. The details and particulars of the F.I.R are already available in bail application and the F.I.R, as such, need not to reproduce the same hereunder.

3. Mr. Nabi Bux advocate holds brief for Mr. Meer Ahmed Mangrio, advocate for applicants and states that he is out of station. Such request is opposed by the counsel for the complainant and states that both the applicants/accused have remained fugitive from law for about 19 years. Record reflects that pre-arrest bail was granted to the applicants/accused on 22.04.2025 and the matter was fixed for confirmation or otherwise on 13.05.2025. On 13.05.2025, the applicants were present on bail and counsel for the applicants was called absent and the matter was adjourned to 28.05.2025. On 16.06.2025, the applicants were present and Mr. Aziz Ahmed Laghari advocate holds brief for Mr. Meer Ahmed Mangrio and stated that he was busy before Circuit Court, Hyderabad and the matter was adjourned to 03.07.2025 and on that day, Mr. Meer Ahmed Mangrio advocate was present and at the joint request, the matter was adjourned. On 29.07.2025, the applicants

were not present; however, counsel for the complainant stated that it is pre-arrest bail and no date is fixed, therefore, the matter was fixed and relisted on 12.08.2025. Today once again, counsel for the applicants is called absent and his junior partner requests for date; such request is declined on the ground that the applicants are on bail before arrest for last three and half months and have remained fugitive from law for about 19 years. Accordingly, learned D.P.G is directed to read out the FIR, and he has read out the FIR.

4. The applicants are present and they are directed to argue the matter. They submit that they are innocent and have falsely been implicated in this case by the complainant. They prayed for confirmation of the bail.

5. On the other hand, learned counsel for the complainant and learned D.P.G have vehemently opposed for grant of bail to the applicants/accused.

6. Heard and perused.

7. From the perusal of the FIR, it transpires that although the names of the applicants are mentioned therein, a specific role has been attributed to applicant Ali Raza, namely, that he was armed with a double-barrel gun and allegedly fired directly at the deceased, Abdul Mutalib, causing him to fall to the ground. It is further alleged that co-accused Ghulam Mustafa also fired upon the deceased. The ocular account stands corroborated by the medical evidence on record. It is also noted that applicant Ali Raza remained a fugitive from law for approximately nineteen years, abstaining from surrendering before the trial court, during which period the case against co-accused Muhammad Shah proceeded to trial, culminating in his acquittal. The prosecution witnesses, in their statements recorded under Section 161, Cr.P.C., have supported the complainant's version. The applicants have failed to establish any mala fide or ill-will on the part of the complainant. Accordingly, the bail application on behalf of applicant Ali Raza is dismissed, and the interim bail granted to him vide order dated 22.04.2025 is hereby recalled.

8. As regards applicant Ghulam Murtaza, the allegation is that he was armed with a hatchet but did not inflict any hatchet blow upon the deceased. Whether he shared a common intention with the co-accused in the commission of the alleged offence shall be determined by the trial court after recording of evidence. The applicant has, therefore, made out a case falling within the purview of subsection (2) of Section 497, Cr.P.C. Consequently, the instant bail application, to the extent of applicant Ghulam Murtaza, is allowed, and the interim pre-arrest bail earlier granted to him is hereby confirmed on the same terms and conditions.

9. The observations made in this decision are of a tentative nature and will not influence the merits of the case

JUDGE

****Faisal****