

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

Criminal Bail Application No.S-141 of 2025

Applicant: Farman s/o Shoukat Ali.
Through Syed Tariq Ahmed Shah advocate.

Respondent: The State through Mr. Dhani Bakhsh Mari
Assistant Prosecutor General, Sindh.

Complainant: Rashid Ali through Mr. Afzal Karim Virk,
Advocate.

Date of hearing: **29.08.2025**
Date of Order: **29.08.2025**

O R D E R.

AMJAD ALI SAHITO, J:- Through this bail application, the applicant/accused above named seek his pre-arrest bail in Crime No.17 of 2025, under sections 302, 324, 337-H(ii), 147, 148, 149 P.P.C, registered at P.S Mirwah Gorchani, after his bail plea was declined by the learned Sessions Judge-I/MCTC, Mirpurkhas.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. The learned counsel for the applicant/accused argued that the applicant is innocent and has been falsely implicated with mala fide intent. The FIR was lodged after an unexplained delay of 12 hours, casting doubt on its credibility. The name of the present

applicant/accused was placed in column-II of police report/challan. The applicant had legally purchased property from a relative of both a prosecution witness and the complainant's family, which caused annoyance and may have motivated the false accusation. The counsel pointed out that the complainant suppressed key facts, including a prior FIR (No. 16/2025) lodged by Abdul Rehman (the applicant's brother), involving the same parties. Additionally, the complainant concealed that members of their party had allegedly murdered Shoukat Ali, a relative of the applicant, and that a person named Sajan (falsely shown as an accused in the current case) was actually a deceased victim in that FIR. The counsel claimed collusion between the complainant and the police in registering the present FIR, violating legal principles established in the Sughra Bibi case. It was also argued that the applicant was not present at the scene of the incident and was only falsely accused of causing a non-fatal injury to the deceased's elbow. The medical report did not confirm the injury as fatal, and the cause of death was attributed solely to another co-accused. The overall circumstances delayed FIR, suppression of prior incidents, and lack of clear evidence raised serious doubt about the applicant's involvement and intent. Finally, the counsel asserted that since there are counter-allegations and conflicting versions, the case requires further inquiry, making the applicant eligible for bail. In support of his arguments, reliance has been placed on case of Allah Dewayo Shahani v. The State through Prosecutor General Sindh (2023 SCMR 1724), Mujahid Hussain and another v. The State through Prosecutor General Punjab, Lahore and another (2024 SCMR 800), Saeed Ahmed and another v. The State (PLD 2024 SC 1241), Ali Raza v. The State & others (2022 SCMR 1245) and Chaudhry Nadeed Sultan v. The State through P.G Punjab and another (2022 SCMR 663).

4. On the other hand, the learned counsel for the complainant appeared and stated that the applicant/accused is specifically nominated in the FIR. The Investigating Officer sent a USB to the Forensic Laboratory; however, the original record was not submitted along with it. He further contended that the forensic

report does not confirm the exact time and date of the incident, and the matter requires deeper appreciation of the evidence. It is further argued that the applicant/accused, Farman, was seen by both the complainant and eyewitness Sarfaraz at the time of the incident. The applicant/accused allegedly fired directly at the deceased, Ali Nawaz, hitting him on the elbow of his left arm. The post-mortem report confirms that Ali Nawaz died due to the injuries sustained. The prosecution witnesses have fully supported the complainant's version and have clearly nominated the applicant/accused. It is further argued that the incident occurred in broad daylight, in front of the complainant's house. Learned counsel for the complainant further submitted that the applicant/accused, along with co-accused persons, arrived at the scene armed with deadly weapons and attacked the complainant party. As a result, the deceased, Ali Nawaz, sustained injuries that led to his death. He further contends that the applicant/accused is not entitled for the extra ordinary relief of pre-arrest bail and prayed for its dismissal.

5. Learned D.P.G also supported the contentions of the learned counsel for the complainant and argued that the applicants/accused are specifically nominated in the FIR and they have committed heinous offence and not entitled for the concession of bail and opposed for grant of bail, while he admitted that the name of the present applicant/accused was placed in column-II of the challan.

6. Heard and perused.

7. From perusal of the record, it transpires that the name of the applicant/accused finds mention in the FIR, wherein it has been alleged that he fired upon the deceased, namely Ali Nawaz, causing an injury on the elbow of his left arm. Furthermore, the record also reflects that co-accused Shoukat Ali allegedly fired upon the deceased Ali Nawaz, which hit him on his left eye. During the course of investigation, the applicant/accused took the

plea of alibi, asserting that at the relevant time of occurrence he was present at Mirpurkhas, on Hyderabad Road, at Al-Latif Motors showroom. The Investigating Officer (I.O.) of the case recorded his statement, which confirmed that at the relevant time, the applicant/accused was not present at the scene of occurrence.

8. On the last date of hearing, learned counsel for the applicant/accused produced certain documents along with CCTV camera images under the cover of a statement, which were duly taken on record. The I.O. was present and submitted that during investigation he had collected CCTV clips, footages, and call data record (CDR) of the applicant/accused, which were forwarded to the Punjab Forensic Science Laboratory for forensic analysis, whereupon the matter was adjourned for the report.

9. Today, the I.O. is present and has filed a report, which has been taken on record. The said report reflects that, after forensic video analysis, no signs of editing were observed in the visual contents. It has further been stated that upon completion of a detailed inquiry, the name of the applicant/accused was placed in Column-II of the challan/police report under Section 173, Cr.P.C. The I.O. has also confirmed that no recovery was effected from the applicant/accused. Reliance is placed upon the judgment in *Saeed Ahmed and others v. The State* (PLD 2024 Supreme Court 1241).

10. It is settled law that the opinion of the I.O. is not binding on the Court; however, in the present case, the I.O. has collected CCTV footage and CDR evidence indicating that the applicant/accused was present away from the place of occurrence. Reliance is placed upon *Chaudhry Nadeem Sultan v. The State through Prosecutor-General Punjab and another* (2022 SCMR 663). Furthermore, as no recovery was effected from the

applicant/accused during the course of investigation, reliance is also placed upon *Ali Raza v. The State & others* (2022 SCMR 1245).

11. Learned counsel for the applicant/accused has further contended that this is a case of two versions: the first version being that of the complainant, while the second version, put forth by the applicant/accused, stands corroborated by the I.O. of the case to the effect that he was not present at the place of occurrence. In view of the facts and circumstances of the case, coupled with the comprehensive report submitted by the I.O., the matter is one of further inquiry falling within the purview of Subsection (2) of Section 497, Cr.P.C. Reliance is placed upon *Mujahid Hussain and another v. The State through Prosecutor-General Punjab, Lahore and another* (2024 SCMR 800). A similar view has been taken by the Honourable Supreme Court of Pakistan in *Saeed Ahmed and another v. The State* (PLD 2024 SC 1241). In *Gul Muhammad v. The State* (2023 SCMR 857), this Court held as under:—

“This Court has time and again held that liberty of a person is a precious right, which cannot be taken away unless there are exceptional grounds to do so. Merely on the Basis of bald allegations, the liberty of a person cannot be curtailed. In these circumstances, the petitioner has made out a case for bail as his case squarely falls within the purview of Section 497(2), Cr.P. C entailing for further inquiry into his guilt.

12. Learned counsel for the applicant has further contended that the complainant, due to enmity, has acted with malafide intent and has implicated several persons, including the applicant/accused, who is innocent and has been falsely roped in this case. In view of the foregoing discussion, the instant bail application stands allowed. Consequently, the interim pre-arrest bail earlier granted

to the applicant/accused Farman is hereby confirmed, subject to the same terms and conditions.

13. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE

Adnan Ashraf Nizamani