

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-397 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)	
Applicants	:	Nizakat Ali Umrani S/o Gul Muhammad Umrani, through Mr. Ghulam Mustafa Burdi, Advocate.
Complainant	:	None present.
The State	:	Mr. Siraj Ahmed Bijarani, Assistant P.G Sindh.
Date of hearing	:	26.05.2025.
Date of Order	:	03.06.2025.

ORDER

RIAZAT ALI SAHAR, J.- The applicant, having been denied bail by the learned Trial Court, has filed the present application under Section 497 of the Criminal Procedure Code, seeking post-arrest bail in Crime No.49 of 2023, registered at Police Station Sakrand, District Shaheed Benazirabad, for offences falling under Sections 302, 504, 337-H(ii), and 34 of the Pakistan Penal Code.

2. Brief facts of the prosecution case are that a pre-existing enmity persisted between the complainant’s family and one Muhammad Waris. It is alleged that the applicant, along with his co-accused, had been issuing persistent threats of murder to the complainant’s nephew, Naseer Ahmed, and other family members. On 19.02.2023, at approximately 1:00 p.m., while the complainant, his nephew Naseer Ahmed, and one Moula Bux were travelling by motorcycle along the Old National Highway towards the City and had reached near Bank Al-Habib by Bughia Market, they were allegedly intercepted by the applicant Nizakat Ali and his co-accused, namely Muhammad Waris and Muhammad Saleem, all of whom were armed with pistols. The co-accused Muhammad Saleem is said to have struck the deceased Naseer Ahmed on the head with the butt of his

pistol, causing him to fall. It is further alleged that Muhammad Saleem then grappled with the injured Naseer Ahmed while the applicant Nizakat Ali fired seven direct shots at him with his pistol, resulting in critical injuries. The accused thereafter fled the scene while resorting to aerial firing. The complainant and witness Moula Bux transported the injured Naseer Ahmed to the Civil Hospital Sakrand after obtaining a referral letter from the police. Subsequently, he was referred to the Peoples Medical College Hospital (PMCH), Nawabshah, where he succumbed to his injuries in the emergency ward. Following the burial of the deceased, the complainant approached the police station and registered the present FIR.

3. Learned Counsel for the applicant contends that a longstanding enmity exists between the complainant party and the applicant, which casts doubt upon the veracity of the allegations. He submits that the FIR has been lodged with an unexplained delay of two days, which undermines the prosecution's case. He further argues that although the alleged incident occurred near Bank Al-Habib at Bughia Market, a public and commercial area equipped with CCTV cameras and frequented by members of the business community, no CCTV footage or independent witness from the vicinity has been produced to substantiate the presence of the applicant at the crime scene. He further submits that all prosecution witnesses cited in the FIR are closely related to the deceased and inherently interested, while PW Moula Bux was admittedly not present at the time of the incident but has subsequently been introduced to falsely bolster the case against the applicant. It is also argued that the co-accused Muhammad Waris and Muhammad Saleem have already been admitted to bail by the learned Trial Court, and on the basis of parity, the applicant is equally entitled to the concession of bail. The learned Counsel further contends that despite the lapse of a considerable period, the prosecution has failed to advance the trial meaningfully, and the applicant remains incarcerated without any substantial progress, rendering his continued detention unjustified. In support of his contentions, learned Counsel has placed

reliance upon the cases reported as 2024 SCMR 28, 2024 SCMR 1543, 2014 SCMR 12, 2013 SCMR 1415, 2021 SCMR 1263, 2023 SCMR 310, 2024 SCMR 205, 2023 SCMR 364, 2023 SCMR 581, 2025 MLD 296, and 2022 YLR 769.

4. Learned Assistant Prosecutor General has strongly opposed the instant bail application, asserting that the applicant stands specifically nominated in the FIR with a clear and unequivocal role attributed to him in the commission of the offence. It is contended that the applicant demonstrated extreme brutality by allegedly discharging seven firearm shots at the deceased, resulting in his death. The learned APG further submits that the weapon purportedly used in the offence was recovered at the instance of the applicant and has been positively matched with the recovered crime empties through a Forensic Science Laboratory report. In view of the direct ocular account, corroborative forensic evidence, and the gravity of the offence, the learned APG argues that the applicant is not entitled to the concession of bail at this stage.

5. Heard. Record perused.

6. The record reveals that the incident in question occurred on 19.02.2023 at around 01:00 p.m., whereas the FIR was lodged on 21.02.2023 at 1500 hours. The delay in registration has been reasonably explained by the complainant, who stated that immediately after the incident, the injured was shifted to Civil Hospital Sakrand and thereafter referred to Civil Hospital/PMCH Nawabshah in a critical condition, where he unfortunately succumbed to his injuries. Following the medico-legal formalities and burial rites, the complainant approached the concerned police station to lodge the FIR. Hence, in the given circumstances, the delay does not appear to be the result of deliberation or fabrication. Furthermore, the applicant is specifically named in the FIR with an active role assigned to him—he is alleged to have fired directly at the deceased, which resulted in his death. The ocular version of the complainant has been duly supported by

prosecution witnesses in their statements under Section 161 Cr.P.C. In addition, the version of the complainant stands corroborated by the recovery of spent crime empties from the scene of occurrence, which were subsequently sent for forensic analysis and matched with the pistol recovered from the possession of the applicant. This linkage between the forensic evidence and the alleged weapon of offence serves to connect the applicant *prima facie* with the commission of the offence. Reliance in this regard may be placed upon the judgment rendered by the Honourable Supreme Court of Pakistan in *Haji Gulu Khan v. Gul Daraz Khan and another* (1995 SCMR 1765), wherein bail granted by the High Court was cancelled due to the presence of strong *prima facie* evidence, including matching ballistic reports. It is also a trite principle that at the bail stage, a deeper appreciation of evidence is unwarranted, and the Court must confine itself to a tentative assessment of the material available on record. In this regard, guidance may be drawn from the authoritative judgment of the Hon'ble Supreme Court in *Itbar Muhammad v. The State and others* (2024 SCMR 1576), wherein bail was refused as the accused was specifically named in the FIR, assigned a direct role and his involvement was substantiated through corroborative medical and forensic evidence. In the present case, such tentative assessment indicates that the accusation against the applicant falls squarely within the prohibitory clause of Section 497 Cr.P.C., and as such, he is not entitled to the concession of bail at this stage.

7. In view of the above, it is observed that *prima facie* the applicant has committed the offence cruelly and no concession appears to have been extended to him; hence, this bail application merits no consideration which is hereby **dismissed**.

8. Needless to mention here that the observation made hereinabove are meant for disposal of the instant application which shall have no effect on merits of the case of either side.

JUDGE