ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Criminal Bail Application No. S-2716 of 2025
(Mumtaz Hussain Versus the State)

DATE	ORDER WITH SIGNATURE OF JUDGES

1. For order on office objection at Flag-A
2. For hearing of Bail application

10.12.2025

Mr. Raja Ali Asghar, Advocate for the Applicant
Mr. Mumtaz Ali Shah, Assistant Prosecutor General, Sindh.

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Ali Haider 'Ada'J:- Through the present bail application, the applicant seeks post-arrest bail in FIR No. 1073 of 2023, registered for offences punishable under Sections 302 and 324, PPC, at Police Station Korangi Industrial Area, Karachi. Prior thereto, the applicant had approached the learned trial Court; however, his bail application was dismissed vide order dated 09.09.2025 passed by the learned Additional Sessions Judge-I, Karachi East.

2. Briefly, the FIR was lodged on 30.07.2023 at about 11:20 p.m., whereas the alleged date and time of the incident are mentioned as 30.07.2023 at about 05:30 hours. As per the contents of the FIR, the complainant stated that due to some unknown reasons, hot words were exchanged between the accused Mumtaz Hussain (the present applicant) and the complainant's brother, namely Farhan-ul-Haq. It is alleged that the accused Mumtaz Hussain inflicted knife blows upon Farhan-ul-Haq and, at the time of intervention, the complainant, Rehan-ul-Haq, also sustained injuries. Subsequently, due to the injuries so received, Farhan-ul-Haq succumbed to death. The complainant himself was also injured, whereafter the matter was reported to the police.

3. Learned counsel for the applicant contended, firstly, that there is no independent eye-witness to the alleged occurrence and that the complainant is the sole witness. He further relied upon medical documents showing that the applicant has been advised to undergo open-heart surgery and, on this medical ground, pressed for grant of

bail. He additionally submitted that, despite registration of the FIR and framing of charge, there has been considerable delay in the conclusion of trial, which entitles the applicant to concession of post-arrest bail.

4. Conversely, the learned Assistant Prosecutor General opposed the bail application and submitted that the applicant is nominated in the FIR with specific allegations of causing knife injuries to the deceased as well as to the complainant. It was further contended that the medical evidence is fully consistent with the ocular account. He referred to the impugned order of the learned trial Court, wherein it has been categorically observed that adequate medical treatment is already being provided to the applicant. As regards the alleged delay in trial, it was submitted that the same is attributable to the accused rather than the prosecution or the complainant. On these grounds, dismissal of the bail application was prayed for.

5. It is pertinent to note that the compliance report has already been submitted by the Station House Officer, Police Station Korangi Industrial Area, Karachi, showing that the complainant was duly bound down; however, despite notice, the complainant is absent today. In these circumstances, there is no option left but to proceed and hear the learned counsel for the parties available.

6. Heard and perused the available record.

7. First and foremost, on merits, it has come on record that the present applicant is nominated with specific and direct allegations of murdering the deceased as well as for causing injuries to the complainant. The material collected during investigation prima facie connects the applicant with the commission of the alleged offence. The absence of an expressly stated motive in the FIR, in these circumstances, does not dilute the direct attribution of the fatal injury to the applicant. On merits, therefore, the present applicant is not entitled to the concession of bail. The Honourable Supreme Court in ***Muhammad Rafique v. The State and others*** **(PLD 2022 SC 694)** has held that where the fatal shot is attributed to the accused and the incriminating material available on record provides reasonable grounds for believing that the

accused has committed the offence of *qatl-i-amd* punishable under Section 302, PPC, the case falls within the prohibitory clause of Section 497(1), Cr.P.C., and no principle of further inquiry under Section 497(2), Cr.P.C. is attracted. It is further a settled proposition of law that each case is to be examined in the light of its own peculiar facts and circumstances. Although the grant of bail is a discretionary relief, such discretion is to be exercised judiciously and not in an arbitrary, fanciful, or perverse manner. In this regard, reliance is placed upon the case of ***Shameel Ahmed v. The State*** **(2009 SCMR 171).**

8. Furthermore, so far as the plea of bail on medical grounds is concerned, a perusal of the medical record reveals that the present applicant was shifted to the National Institute of Cardiovascular Diseases (NICVD) for proper examination and treatment. The medical board has also been regularly monitoring his health condition. The learned trial Court, after examining the medical reports, has specifically observed that the applicant was declared clinically stable. It is a settled principle of law that bail on medical grounds is not to be granted as a matter of course. Strong and exceptional reasons must exist to believe that, despite the availability of modern medical facilities, life-saving drugs, and advanced treatment, the continued detention of an accused would be hazardous to his life. The medical opinion must be explicit and unambiguous to establish that adequate treatment is not available and that further incarceration would endanger the life of the accused. In the present case, the applicant has failed to bring his case within the ambit of the aforementioned principle. The medical record does not suggest that his ailment is of such a nature that it cannot be adequately managed within the jail or at government-run specialized hospitals. Rather, the record demonstrates that he has been provided proper medical care and treatment under the supervision of the jail authorities and the medical board. For releasing an accused on bail on medical grounds, it must be convincingly shown that, having regard to the nature of illness, his treatment is not possible even with advanced medical technology and available medicines. Reliance in this regard is placed upon the cases of ***Shahbazuddin Chaudhry and another v. The***

***State* (PLD 2004 SC 785), *Ghulam Raza v. Khuda Bux and another* (2005 SCMR 1904), and *Muhammad Arshad v. The State and another* (1997 SCMR 1275).**

9. It is also pertinent to observe that it is the primary duty of the jail authorities, in coordination with the concerned medical board, to ensure proper medical treatment of the under-trial prisoner and to take all necessary measures as and when required. In the circumstances, since adequate treatment has already been provided and the medical board is actively attending to the applicant, the plea of bail on medical grounds does not merit acceptance.

10. Now, presenting to the plea of delay in the conclusion of the trial, it is noted that a progress report was called for from the learned trial Court. In response, the trial Court submitted its report stating that the proceedings were primarily delayed due to the absence of learned defence counsel and the filing of repeated applications for adjournment. A perusal of the case diaries, particularly after the framing of charge, further reflects that on several dates the defence counsel was reported absent. When the learned counsel who produced the case diaries was confronted with the said record, it clearly transpired that the delay cannot be attributed to the prosecution; rather, it is squarely attributable to the conduct of the defence. The right to expeditious trial is indeed a fundamental right of an accused; however, such a right must be invoked bona fide and cannot be pressed into service when the accused himself has adopted dilatory tactics. In the present case, the defence has not only failed to seek early disposal but appears to have deliberately lingered in the matter and remained non-cooperative in the expeditious conclusion of trial. In this regard, reliance is placed upon the judgment of the Honourable Supreme Court in ***Muhammad Ali v. The State and another* (2023 SCMR 1131),** wherein it has been held that where a delay in trial is attributable to the accused, he cannot claim the benefit of bail on the ground of delayed conclusion of trial. Additionally, the Honourable Apex Court in ***Adnan Shafai v. The State and another* (2024 SCMR 1479)** has observed that if an accused deliberately causes delay in the

conclusion of trial by filing irrelevant or repetitive applications, he is not entitled to concession of bail on the statutory ground of delay.

11. In view of the foregoing facts and circumstances, and after going through the entire material available on record, the applicant has failed to make out a case for concession of bail; consequently, the present bail application is hereby dismissed. However, the learned trial Court is directed to conclude the trial expeditiously, preferably within a period of four (04) months, without granting unnecessary adjournments to either side. The learned defence counsel is also directed to extend full cooperation for the timely conclusion of the trial and to refrain from seeking unwarranted adjournments.

JUDGE