

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-255 of 2025

<><><><>

Applicants:

1. Zulfiqar S/o Nabi Bux,
2. Nabi Bux S/o Muhammad,
3. Imran Ali S/o Muhammad,

Through Mr. Allah Bux Chang, Advocate.

Respondent:

The State
Through Mr. Dhani Bakhsh Mari, A.P.G.

Date of Hearing:

23.10.2025

Date of Order:

23.10.2025

<><><><>

ORDER

Shamsuddin Abbasi, J-: Applicants Zulfiqar, Nabi Bux and Imran Ali seek post-arrest bails in Crime No.30 of 2022 under Sections 302, 504 and 34 P.P.C, registered at Police Station Sinjhor, after the same were declined by the learned Additional Sessions Judge-I, Sanghar vide order dated 11.09.2025.

2. The brief facts of the prosecution case are that on 28.03.2024 at 08:00 p.m, the applicants alongwith main accused Muhammad Rind came at the scene of incident and Muhammad Rind caused hatchet blow to deceased Rajab Ali on his head and mere presence has been shown of the applicants at the scene of incident.

3. Learned counsel for the applicants contended that the applicants have been falsely implicated by the complainant with malafide intention and ulterior motives; that they were not fugitives from law but were unaware of the registration of this case; that in the first round, the trial was concluded and the main accused, Muhammad Rind, was convicted for life imprisonment; that thereafter, the applicants were arrested after the

dismissal of their pre-arrest bail; that no incriminating material was recovered from their possession; and that the question of sharing common intention requires further inquiry in terms of Section 497 Cr.P.C. Lastly, he prayed for the grant of post-arrest bail to the applicants. Lastly, he prayed for grant of post arrest bail to the applicants.

4. On last date of hearing viz: 15.0.2025, the complainant has put his appearance and sought time to engage the counsel. Today neither he is in attendance nor engaged any counsel which reflects that he has lost his interest to pursue the case. However, learned A.P.G for the State has opposed the grant of bail to the applicants on the ground that they are nominated in the F.I.R and remained fugitive from the law for about 03 years and 06 months, as such, they are not entitled for grant of bail.

5. Heard learned counsel for the applicants, learned A.P.G for the State and perused the record.

6. Admittedly, specific role has been assigned to co-accused Muhammad Rind and after full fledged trial, he was convicted and sentenced for imprisonment of life. The contentions raised by the counsel for the applicants that they were unaware about the registration of this case and when they came to know about pendency of this case, they appeared before the trial court and sought interim pre-arrest bail and the same was declined by the learned trial court vide order dated 11.09.2025 and they were taken into custody. It is well proposition of law that bail cannot be declined merely on the ground of absconsion as held by Hon'ble Supreme Court of Pakistan in case of Mitho Pitafi vs. The State reported in **(2009 SCMR 299)**. As far the merits of the case is concerned, mere presence has been shown at the scene of offence and no active role has been assigned to them and sharing common intention requires

further inquiry in terms of Section 497 Cr.P.C as held by Hon'ble Supreme Court of Pakistan in a case of *Manzoor Hussain vs. The State* reported in **2011 SCMR 902**.

7. In view of the above, the applicants are admitted on post arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- each and a P.R. Bond in the like amount to the satisfaction of learned trial court.

8. The observations made here-in-above are tentative in nature and would not prejudice the case of either party at the trial.

The application stands disposed of.

JUDGE

Faisal