

# **THE HIGH COURT OF SINDH AT KARACHI**

## **Criminal Bail Application No.1833 of 2025**

Applicant : Syed Asim Raza Zaidi through Mr. Ali Gohar Masroof, Advocate

Complainant ; Mst. Sakina Khatoon through Mr. Asif Waheed Korejo, Advocate

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of Hearing : 31.10.2025

Date of Decision : 04.11.2025

### **ORDER**

**Jan Ali Junejo, J.-** Through the present application under Section 497, Cr.P.C., the applicant seeks his release on bail in FIR No.24/2004 registered at Police Station Gizri, Karachi under Sections 302/34, P.P.C., alleging the murder of Muhammad Latif son of Ghulam Hussain. The applicant's earlier bail plea was dismissed by the learned VI-Additional District & Sessions Judge, Karachi-South vide order dated 18.06.2025.

2. Brief facts of the case, as narrated in the FIR, are that the complainant Mst. Sakina Khatoon reported that on 14.02.2004 at about 8:15 p.m., her son Muhammad Latif went out for a haircut and shortly thereafter, one Muhammad Ashfaq informed the family that her son had been shot and killed by Aleem alias "Tension", Asim alias "Baba", and another unknown accomplice. The complainant's sons reached the place of incident behind House No.31/1, P&T Colony, where the deceased was found lying in a pool of blood and was declared dead at Jinnah Hospital due to firearm injuries.

3. Learned counsel for the applicant, argued that the applicant is innocent and has been falsely implicated after more than twenty-one years. He contended that the name of the applicant as Syed Asim Raza Zaidi does not appear in the FIR, no identification parade was held, and no incriminating article or weapon was recovered from his possession. It was further argued that the applicant was arrested in 2025 without any warrant and produced before the Magistrate after more than 40 hours, rendering the custody illegal. Learned counsel emphasized that the entire investigation record from 2004, including the site plan, recovery memos, and statements of witnesses, is missing, which itself creates doubt in the prosecution case. Lastly, the learned counsel prayed for grant of bail.

4. The learned counsel for the Complainant and the prosecution vehemently opposed the bail, arguing that the applicant was specifically named in the FIR as "Asim alias Baba" and played an active and conscious role in the murder by catching hold of and dragging the deceased, thereby facilitating the co-accused who fired the fatal shots, after which both fled the scene. It is further contended that the applicant's prolonged absconson for approximately 21 years was not a neutral fact but a demonstration of his guilty mind and a conscious effort to evade justice, which, as per settled law, itself disentitles an accused to the discretionary relief of bail. Finally, it was emphasized that the offence of murder under Section 302 PPC, being a heinous crime punishable by death and falling squarely within the prohibitory clause of Section 497 Cr.P.C., coupled with the direct ocular account of an eyewitness which prima facie implicated the applicant, meant that the case did not warrant "further inquiry" and that the missing investigation documents from 2004 did not nullify this substantive evidence against him. Lastly, the learned counsel prayed for dismissal of bail.

5. Conversely, the learned Additional Prosecutor General Sindh vehemently opposed the bail application. It was argued that the applicant is specifically named in the FIR as Asim alias Baba. The present applicant facilitating the co-accused and fired at him, resulting in his death, thereafter both accused fled away on the same motorcycle. This, according to the prosecution, clearly shows the active and conscious participation of the applicant in committing and facilitating the murder. It was further argued that the applicant remained absconding for about 21 years, and his arrest after such prolonged absconson is no ground for the grant of bail. On the contrary, his long evasion from law demonstrates his guilty mind and conscious effort to avoid the process of justice. It was emphasized that the offence under Section 302, P.P.C. falls within the prohibitory clause of Section 497, Cr.P.C. and carries the maximum punishment of death, therefore the applicant does not deserve the discretionary relief of bail. Lastly, the learned A.P.G. prayed for dismissal of bail.

6. I have considered the arguments advanced by the learned counsel for the parties and perused the material available on record with due care. The record reveals that the name of the applicant appears in the FIR as Asim alias Baba, who along with accused Aleem alias Tension, brought the deceased, caught and dragged him, and after the firing of shots, fled from the scene on the same motorcycle alongwith main accused. Prima facie, this reflects the applicant's active role in the commission of the

offence and his participation in facilitating the co-accused in causing the death of the deceased. It is also an admitted position that the applicant remained a fugitive from law for about 21 years. The plea that he was living openly during this entire period cannot justify or wash away his absconsion. It is well settled principle of law that prolonged absconsion disentitles an accused from discretionary relief of bail and such conduct itself is a circumstance against the grant of bail. As per dictum laid down by the Honourable Supreme Court of Pakistan in Cases of **Sher Ali alias Sheri v. The State (1998 SCMR 190)** and **Awal Gul v. Zawar Khan and others (PLD 1985 Supreme Court 402)**, unexplained noticeable abscondence disentitles a person to the concession of bail notwithstanding merits of the case. In another similar case, **Noor Bakhsh v. The State (2020 SCMR 1205)**, the Honourable Supreme Court of Pakistan observed that: *“Petitioner stayed away from law for a period exceeding half a decade and was finally arrested on 3.2.2020; being a fugitive from law, that too for a pretty long period of time, he has disentitled himself to the concessions, ordinarily extended in discretion to an offender”*.

7. The offence with which the applicant stands charged under Section 302, P.P.C. is punishable with death or life imprisonment and falls squarely within the prohibitory clause of Section 497, Cr.P.C. The ocular account furnished by the eye-witness directly connects the applicant with the commission of the offence, and at this stage, deeper appreciation of evidence is not permissible. The missing investigation papers, even if so, do not nullify the substantive evidence available in the form of eyewitness account which sufficiently implicates the applicant.

8. The applicant's long absconsion, active participation in the commission of the offence, and the gravity of the charge all go against him. The case does not call for further inquiry within the meaning of Section 497(2) Cr.P.C. Therefore, the applicant has failed to make out a case for grant of bail.

9. For the reasons stated hereinabove, the bail application filed on behalf of the applicant, being devoid of merit, is hereby dismissed. The observations made herein are tentative in nature and confined solely to the disposal of this bail application.

**JUDGE**