

Order Sheet

IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail Application No. 1738 of 2025
(Yousuf @ Mithoo v. The State)

Date	Order with signature of Judge
<u>For hearing of Bail Application.</u>	

30.12.2025

Mr. Khalid Nawaz Marwat, Advocate for Applicant.
Ms. Amna Ansari, Additional Prosecutor General.
Complainant Amjad Khan present in person.

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MUHAMMAD OSMAN ALI HADI J:- This Bail Application assails the Order dated 12.06.2025 passed by 1st Additional District & Sessions Judge Karachi South¹ in S.C. No. 448/2025 being FIR No. 331/2025 registered at P.S. Baghdadi Karachi, for offences under Sections 302/109/34 PPC.

2. Learned Counsel for the Applicant submits that the Applicant/Accused has been behind bars since over one (1) year, and the trial has not yet even commenced. Learned counsel further submits that three other persons accused in the same First Information Report (“FIR”) have already been granted bail vide respective orders². Learned counsel contends that the Applicant has not been stated to have had any weapon on him, nor has he been accused of firing or otherwise handling the lethal weapon involved in the murder of the Deceased. He submits that the only allegation against the Applicant / Accused is that he was at the scene of the crime alongside the main Accused, namely Arbaz Khan. Learned Counsel submits that as per the Rule of Consistency, and since there is no direct role attributed to the Applicant / Accused, and due to the accused already being in confinement for over one year without any advancement of trial; at this stage he is entitled to the concession of bail.

3. Learned Additional Prosecutor General has seriously controverted the narrations of the learned Counsel of the Applicant. She submits that the FIR pertains to the serious crime of murder under Section 302 of the PPC, and therefore the Rule of Consistency would not apply in the instant circumstances. She

¹ Available at page 17.

² Available at pages 47 to 61

further submits that the other three accused who were granted bail were admittedly non-existent at the scene of the Crime, and therefore, their case is on a separate footing to the instant Applicant/Accused. She further contends that the accused was identified by the Complainant in the Identification Parade, and as such learned counsel submits that there is no ambiguity that the Applicant / Accused was involved in such Crime through common intention. She further submits that there is C.C.T.V footage also available, which placed the said Applicant / Accused at the scene of the Crime during course of the incident.³

4. The Complainant is present in Court, and submits that he is no longer interested in pursuing the said matter due to his personal reasons, which he submits is without any threat or coercion from any party.

5. I have heard the learned Counsels and with their able assistance, I have gone through the record on File. The FIR has assigned the only role of the instant Applicant /Accused being that he was present at the scene of the Crime, but does not attribute any specific role of the Applicant / Accused towards committing the actual murder of the Deceased.

6. Having perused through the entire facts and circumstances of the matter, the following points have been deduced: no direct role has been shown against the Applicant / Accused's physical commission towards the crime itself; the Trial still has not commenced; the Applicant / Accused has already been incarcerated for over one (1) year (without a trial); no allegation of threatening or past criminal behaviour on behalf of the Applicant has been alleged; three of the co-accused have already been granted bail; and the allegation against the Applicant under Section 34 PPC (common intention) would require further investigation. Based on the aforementioned grounds, in accordance with settled principles enunciated by the Apex Court,⁴ I am of the opinion the Applicant / Accused is entitled to the concession of bail.

7. In view of the foregoing, this Bail Application is allowed. The Applicant/Accused Yousuf @ Mithoo S/o Zarin Khan is admitted to post-arrest bail in the above Crime / FIR subject to furnishing

³ The said C.C.T.V. footage is not available on the Court's record

⁴ *Noor Agha v The State* 2025 SCMR 1679; *Zulqarnain Haider v The State* 2025 SCMR 1716; *Zeeshan v The State* 2024 SCMR 1716.

solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousands Only) and a PR bond in the like amount, to the satisfaction of the Nazir of this Court.

7. Needless to state the observations hereinabove are purely tentative in nature, and shall not prejudice the proceedings before the Trial Court, which shall decide the case strictly on the evidence led before it.

The Bail Application is disposed of.

J U D G E

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