

IN THE HIGH COURT OF SINDH AT KARACHI.

Criminal Bail Application No. 2785 of 2025

Applicant : **Attaullah** through Mr. Zahirullah Khan, Advocate.

Complainant : Farmanullah Mr. Bashir Khan Advocate.

Respondent : The State through Mr. Mumtaz Ali Shah, A.P.G. Sindh

Date of hearing : 15.01.2026.

Date of order : 22.01.2026.

ORDER

TASNEEM SULTANA-J.:- Through this Criminal Bail Application, the applicant/accused seeks post arrest bail in Crime No.260/2025, registered at Police Station Orangi Town, Karachi (West), for the offence under sections 302/34, P.P.C., having been rejected by the learned IIIrd Additional Sessions Judge, Karachi (West), vide order dated 27.09.2025 passed in Post-Arrest Bail Application No.4799/2025; hence, this bail application for the same concession.

2. Brief facts of the prosecution case, are that on 11.07.2025 at about 1615 hours, the complainant Farman Ullah alleged that while he along with his brother Zakir Ullah was present at the ground near Orangi Town Jama Masjid Ameer Daulat ul Qatar, for playing/practicing cricket, the applicant/accused Attaullah and another person stated to be the son/brother of Haji Akbar started dispute with them; extended threats; and during the ensuing quarrel, they allegedly caught hold of Zakir Ullah, whereafter one of them hit him on his head with a cricket bat, as a result whereof he sustained injury. The injured was first shifted to area hospital and thereafter taken to Jinnah Hospital, where, during treatment, he succumbed to injuries. On such allegations, the above FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and he has been falsely implicated by the police with mala fide intention and ulterior motives; that he has no concern with the alleged offence; that the liberty of a respectable citizen is being curtailed in the garb of a false criminal case; that the applicant had only entered to separate the parties; that the complainant, with mala fide intentions, has involved him in this false case; that even the challan reflects that the applicant tried to resolve the dispute between the parties; that no recovery has been effected from the applicant to connect him with the commission of the offence; that there is no direct

involvement attributed to him; that the prosecution story is highly doubtful; that all the prosecution witnesses have not implicated the applicant in their statements recorded under section 161, Cr.P.C.; that there is not an iota of evidence against the applicant; that the matter requires further inquiry; that the case falls within the ambit of section 497(2), Cr.P.C.

4. Conversely, learned State counsel, assisted by learned counsel for the complainant, opposed the application; contended that the applicant is specifically nominated in the FIR; that he was well identified at the spot; that he actively participated in the incident resulting in death of the injured; that the prosecution witnesses have implicated him in their respective statements recorded under section 161, Cr.P.C.; that the ocular account finds support from medical evidence; and that the offence falls within the prohibitory clause of section 497, Cr.P.C.; therefore, the applicant does not deserve the concession of bail.

5. Heard. Record perused.

6. At the outset, the allegation against the applicant, as emerging from the FIR and the material collected during investigation, is that he, along with two other accomplices, initiated dispute at the spot; extended threats to the complainant party; they caught hold of the deceased Zakir Ullah during the quarrel; and one of them inflicted a head injury by means of a cricket bat, which proved fatal, as the injured succumbed during treatment. The applicant, therefore, is not shown to be a mere bystander; rather, the prosecution attributes him a role in the occurrence which culminated in the death of the injured.

7. The material available on record, at this stage, *prima facie* furnishes reasonable grounds to believe that the applicant is connected with the commission of the alleged offence under section 302, P.P.C., which entails capital punishment and squarely attracts the prohibitory limb of section 497, Cr.P.C.

8. It is well-settled that at bail stage this Court is not required to undertake a deeper appreciation of evidence; however, where the record discloses reasonable grounds to believe that the accused is involved in a charge entailing capital punishment, the concession of bail is not to be extended as matter of routine. In the present case, the nature of accusation, the manner in which the injury is alleged to have been inflicted, and the resultant death of the injured, *prima facie* brings the case within the prohibitory limb of section 497, Cr.P.C. The pleas raised on behalf of the applicant, including alleged false implication and the claim that he merely intervened to resolve the dispute, are matters which require evidence and determination by the trial Court and, at this stage, do not appear sufficient to bring the matter within the scope of

further inquiry. Reliance is placed on the case of **Haji Khattak v. The State and Another (2023 SCMR 1182)**, wherein the Hon'ble Supreme Court observed that:

"Sufficient incriminating material is thus available on the record of the case to connect the petitioner with the commission of the alleged offense. The findings of the courts below in this regard are not perverse or arbitrary, which could have justified interference by this Court. The petitioner, therefore, has no case for grant of bail under subsection (2) of section 497, Cr.P.C."

9. For what has been discussed above, the applicant has failed to make out a case for grant of post-arrest bail. Consequently, instant Criminal Bail Application is dismissed.
10. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE

Shabir/PS