

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

*Criminal Bail Application No. S-711 of 2025.
(Tufail Ahmed Dashti Vs. The State)*

Applicant: Tufail Ahmed Dashti son of Jamal Din by caste Dashti, *through* Mr. Asif Hussain Chandio, Advocate.

Complainant: Asif son of Barkat Ali by caste Pathan, *through* Mr. Mujahid Ali Jatoi, Advocate.

The State: *Through*, Mr. Nazir Ahmed Bhangwar, Deputy Prosecutor General, Sindh.

Date of hearing: 29.01.2026.

Date of Order: 29.01.2026.

ORDER

Ali Haider 'Ada', J:- Through this application, the applicant seeks post-arrest bail in Crime No.125 of 2025, registered at Police Station Saddar, Jacobabad, for offences punishable under Sections 302, 201, 109, and 34 PPC, lodged by the complainant Asif Ali, father of the deceased Zubair Ahmed. Earlier, the applicant approached the learned trial Court for the same relief; however, his bail application was dismissed vide order dated 25.11.2025.

2. Briefly stated, the prosecution's case is that on 06.05.2025, the accused/applicant Tufail allegedly came to the house of the complainant and took his son Zubair Ahmed for some work. When the deceased did not return till night, the complainant and his family searched for him. Subsequently, on 11.05.2025, it came to the knowledge of the complainant party that a dead body was lying at the hospital. Upon reaching there, they identified the dead body as that of Zubair Ahmed. After completing the necessary formalities, the complainant lodged the FIR, alleging that on the instigation of the wife of the deceased, namely Mst. Rozina, and another woman, namely Mst. Shahida, Zubair Ahmed was murdered.

3. Learned counsel for the applicant contends that there is an inordinate delay in the registration of the FIR as well as in conducting the post-mortem examination. He submits that the post-mortem report reflects the time of death to be about ten days prior, which does not correspond with the date mentioned in the FIR. He further submits that the alleged co-accused, namely Mst. Rozina and Mst. Shahida have already been released on bail, whereas the present applicant has been nominated in the FIR without any specific role attributed to him regarding the commission of the murder. On these grounds, learned counsel prays for the grant of post-arrest bail to the applicant.

4. Conversely, the learned Deputy Prosecutor General opposes the bail application and submits that a prima facie case has been made out against the applicant. He further argues that it remains unexplained as to how and under what circumstances the deceased, who was last seen in the company of the applicant, met his death. According to the learned State Counsel, at this stage of tentative assessment, the material available on record suggests the active involvement of the applicant in the commission of the alleged offence.

5. Learned counsel for the complainant, under instructions, adopts the arguments advanced by the learned Deputy Prosecutor General. Additionally, he submits that the applicant Tufail, as well as his son, are serving in the Pakistan Air Force, and due to such acquaintance, the applicant obtained the contact number of Mst. Rozina, the wife of the deceased. He alleges that the applicant developed illicit relations with her and, on account of such a relationship, committed the murder of the deceased, who was a young man and the sole breadwinner of his family. Learned counsel for the complainant also submits photocopies of certain pictures along with his statement, which are taken on record, and finally prays for dismissal of the bail application on the ground that the applicant is the real culprit.

6. Heard the learned counsel for the parties and examined the material available on record with due care and circumspection.

7. It has neither been denied nor rebutted that the applicant was acquainted with the deceased and, as per the FIR, had taken the deceased from his house on the relevant date. Subsequently, the deceased was found murdered. According to the prosecution's case and the material available on record, prima facie, the medical evidence fully corroborates the occurrence of a homicidal assault. It further transpired that on 11.05.2025, the police recovered the dead body from the place pointed out, where, after further legal proceedings were initiated. These circumstances indicate that there appears to be no ill-will or mala fide on the part of the complainant in implicating the present applicant in the FIR.

8. Furthermore, statements of the prosecution witnesses also prima facie support the version of the prosecution. So far as the role of the lady accused is concerned, they have been attributed different roles, the determination of which requires recording of evidence at trial. However, at this stage, the case of the present applicant stands on a different footing, as he is alleged to have taken the deceased from his house immediately prior to the occurrence, thereby attracting a distinct level of culpability in the prosecution case. It is well-settled law that the rule of consistency is attracted only when the case of an accused stands on the same footing as that of a co-accused who has been granted post-arrest bail. In the present case, the role attributed to the lady co-accused is clearly distinguishable from the role assigned to the present applicant. In the case of **Muhammad Atif v. The State (2024 SCMR 1071)**, the Honourable Supreme Court observed as under:

"7. The rule of consistency in bail matters is attracted and applied after the grant of bail to a co-accused. Grant of bail by a court considers several factors like the contents of the FIR, the incriminating material collected by the police during investigation, the past history of the accused, etc. The grounds which form the basis for the grant of bail to a co-accused is thus the benchmark for grant of bail to the accused under the rule of consistency. Therefore, the court has to assess whether the role of the accused in the FIR, examined in the background of the material collected by the Police is the same as that of the co-accused, who has been granted bail. It is this congruence in the case of the co-accused and the accused that attracts the rule of consistency."

In view of the foregoing principles, and having found that the role attributed to the applicant, as well as the material available against him,

is not identical to that of the co-accused, the rule of consistency is not attracted in the present case.

9. Moreover, the offence alleged against the applicant is one under Section 302, P.P.C., which is punishable with death or imprisonment for life and, as such, squarely falls within the prohibitory clause of Section 497(1), Cr.P.C. It is a settled proposition of law that in cases falling within the prohibitory clause, the grant of post-arrest bail is circumscribed and can only be extended if the case falls within the exceptions provided therein, namely: (i) under the first proviso to Section 497(1), Cr.P.C., where the accused is a woman, a minor, or a sick or infirm person; (ii) under the third proviso to Section 497(1), Cr.P.C., where there is an unreasonable delay in the conclusion of the trial, not attributable to the accused; and (iii) under Section 497(2), Cr.P.C., where the case calls for further inquiry into the guilt of the accused. Upon a tentative assessment of the material available on record, the applicant's case does not appear to fall within the ambit of further inquiry to attract the provisions of Section 497(2), Cr.P.C. In this regard, reliance may be placed on the cases of **Bakhti Rehman v. The State (2023 SCMR 1068)** and **Muhammad Atif v. The State (2024 SCMR 1071)**.

10. It is further well-settled that where there exist reasonable grounds to believe that an accused has committed an offence punishable with death or imprisonment for life, the case attracts the prohibitory clause of Section 497, Cr.P.C. In the present matter, the allegations levelled against the applicant carried such punishment; therefore, the statutory bar under the said provision is clearly attracted. Reliance in this respect is placed upon the judgments of the Honourable Supreme Court in **Sher Muhammad v. The State (2008 SCMR 1451)** and **Shoukat Ilahi v. Javed Iqbal and others (2010 SCMR 966)**, wherein it was held that :

"6. We have given due consideration to the submissions made and have gone through the material available on record. From the record, we find that the name of the petitioner was mentioned in the F.I.R.; that the motive had been alleged against him; that a specific role of raising lalkara was assigned to him and that it was specifically mentioned that he and his co-accused fired at the deceased, which hit him. The P.Ws. have supported the case in their 161, Cr.P.C. statements which is further corroborated by the medical evidence, as

according to the Medical Officer the deceased had six firearm entry injuries out of them two were exit wounds. Thus, prima facie incident has been committed by more than one person. From the material available on record, we are of the view that there are reasonable grounds for believing that the petitioner is involved in the case."

11. At the bail stage, a deeper scrutiny or a meticulous appraisal of the material available on record is neither warranted nor desirable, as such an exercise may prejudice the merits of the case at trial. However, a tentative assessment of the available material prima facie connects the applicant with the commission of the alleged offence, which falls within the ambit of the prohibitory clause of Section 497, Cr.P.C. Support in this regard is drawn from the case of **Ghazi Arab v. The State (2025 SCMR 1967)**.

12. In view of the facts and circumstances of the case, the applicant has failed to make out a case for the grant of post-arrest bail. Consequently, his post-arrest bail application is dismissed.

J U D G E