

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

Criminal Bail Application No. S-93 of 2026

**Before:**

*Mr. Justice Ali Haider 'Ada'.*

Applicant : Abdul Ghaffar son of Ahmed Ali Khuhawar *through* Mr. Rafique Ahmed K.Abro, Advocate.

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

Complainant : Akhtar Hussain *through* M/S Ashfaque Hussain Abro and Naseer Ahmed Waggan, Advocates.

Date of Hearing : 11.06.2026

Date of Order : 11.06.2026.

Date of Reasons : 22.06.2026

**ORDER**

**Ali Haider 'Ada' J.**- Through this bail application, the applicant seeks post-arrest bail in FIR No.22 of 2025, registered at Police Station Mahi Makol, for offences punishable under Sections 302, 324, 337-A(i), F(i), H(ii) 504, 148 and 149, P.P.C., lodged by complainant Akhtar Hussain. Prior to filing the instant application, the applicant approached the learned trial Court for the same relief; however, his bail application was dismissed vide order dated 20.02.2026.

2. Briefly stated, the prosecution case is that the present applicant, along with his co-accused, allegedly made indiscriminate firing upon Amir Ali, nephew of the complainant, and that a firearm shot fired by the applicant struck the left

thigh of said Amir Ali. The alleged incident took place on 20.06.2025 and the F.I.R. was lodged on 21.06.2025.

3. Learned counsel for the applicant contended that the F.I.R. was lodged with delay and no plausible explanation has been furnished by the prosecution for such delay. He further submitted that the specific role attributed to the applicant is of causing a firearm injury to prosecution witness Amir Ali, which has been declared by the Medical Officer as *Jurh-e-Ghair Jaifah Mutalahimah*, an offence punishable with imprisonment up to three years and, therefore, not falling within the prohibitory clause of Section 497, Cr.P.C. Learned counsel further argued that co-accused Barkat Ali, Sajjad and Muhammad Ali, who were assigned similar roles, have already been admitted to bail by the learned trial Court. On the strength of these submissions, he prayed for grant of post-arrest bail.

4. On the other hand, learned counsel for the complainant opposed the application and submitted that one person lost his life while two others sustained injuries during the occurrence. According to him, the applicant acted in furtherance of the common object shared by the unlawful assembly and is, therefore, equally liable for the commission of offences under Sections 302 and 324, P.P.C. He maintained that sufficient material is available on record to prima facie connect the applicant with the commission of the offence and, thus, he is not entitled to the concession of bail.

5. Learned Deputy Prosecutor General also opposed the application and argued that the gravity of the offence is evident from the fact that one person was murdered and two persons sustained injuries. He contended that the case falls

within the prohibitory clause and, therefore, the applicant does not deserve the concession of bail.

6. Heard and perused the available record with their assistance.

7. A perusal of the F.I.R. reveals that the allegation against the present applicant is that he caused a firearm injury to prosecution witness Amir Ali. It is also alleged that co-accused Barkat Ali inflicted a hatchet blow upon the head of prosecution witness Farhan Ali. The record reflects that co-accused Barkat Ali, despite being attributed a specific injury to an injured witness, was granted bail by this Court vide order dated 16.01.2026. So far as the role of the present applicant is concerned, the injury attributed to him on the left thigh of Amir Ali has been declared by the Medical Officer as *Jurh-e-Ghair Jaifah Mutalahimah*, which carries a maximum punishment of three years' imprisonment and does not fall within the prohibitory clause of Section 497, Cr.P.C.

8. The alleged incident took place on 20.06.2025 at about 3:30 p.m. The police papers reveal that the memo of inspection of the dead body, Lash Chakas Form and other relevant documents were prepared on the very same day. The record further reflects that the complainant party approached the police station on 20.06.2025 and obtained a medical letter for treatment of the injured persons. Thus, the police machinery had already been set into motion on the date of occurrence. However, despite the availability of all relevant information, the names of the applicant and other accused were disclosed through the F.I.R. lodged on 21.06.2025 at about 2:00 p.m. The delay of approximately one day remains unexplained. Once the complainant party had approached the police immediately after the occurrence, no

satisfactory explanation has been furnished as to why the F.I.R. was not registered promptly. Such delay gives rise to a possibility of deliberation and consultation and cannot be ignored at the bail stage. Reliance in this regard is placed upon **Mazhar Ali v. The State (2025 SCMR 318)**.

9. The record further reveals a material inconsistency between the ocular account and the medical evidence. While the prosecution witnesses have attributed a firearm injury to the applicant, the Medical Officer who examined injured Amir Ali described the kind of weapon as a hard and blunt object. This discrepancy creates a serious doubt regarding the prosecution version and the role assigned to the applicant. It is a settled principle of law that where medical evidence is at variance with the ocular account, the benefit of such inconsistency is to be extended to the accused. Reliance may be placed upon **Ehsan Akbar v. The State and others (2007 SCMR 482)**, **Mst. Yasmin Butt v. Majid Baig alias Bobby Pehlwan and another (2008 SCMR 1602)**, **Muhammad Ramzan v. Rahib and others (PLD 2010 SC 585)**, **Khalid Mehmood and another v. Muhammad Kashif Rasool and others (2013 SCMR 1415)**, **Syed Khalid Hussain Shah v. The State and another (2014 SCMR 12)**, **Awal Khan and others v. The State through A.G., KPK and another (2017 SCMR 538)**, and **Mir Muhammad v. The State through Prosecutor General Sindh (2024 SCMR 805)**.

10. No doubt, the applicant was arrested on 29.06.2025 and an alleged crime weapon was recovered from his possession. However, mere recovery by itself is not sufficient to conclusively connect an accused with the commission of the offence, particularly when serious doubts have surfaced from the prosecution record. It is a settled principle of law that where reasonable doubt exists regarding the involvement of

an accused, the benefit thereof is to be extended even at the bail stage. Mere recovery, in the absence of other corroborative evidence, does not automatically disentitle an accused from the concession of bail if the case otherwise calls for further inquiry. Reference may be made to **Muhammad Rafiq v. The State (1997 SCMR 412)**, **Nayat and others v. The State (PLJ 1975 Cr.C. (Lahore) 261)** and **(1975 P.Cr.L.J. 1271)**.

11. It is also significant to note that the specific injury attributed to the applicant has been declared as *Jurh-e-Ghair Jaifah Mutalahimah*, which is punishable with imprisonment up to three years and, therefore, falls outside the prohibitory clause of Section 497, Cr.P.C. In this regard, guidance may be sought from **Muhammad Daud v. The State (2026 SCMR 115)**.

12. For the foregoing reasons and tentative assessment of the material available on record, this Court was of the view that the case of the applicant requires further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the post-arrest bail application was allowed vide short order dated 11.06.2026, whereby the applicant, namely Abdul Ghaffar, was admitted to bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R Bond in the like amount to the satisfaction of the learned trial Court. Needless to observe that the observations made herein are purely tentative in nature and confined solely to the determination of the instant bail application. The learned trial Court shall decide the case strictly on the basis of the evidence that may be brought on record, without being influenced in any manner by any observation contained in this order. These are the reasons for the short order dated 11.06.2026.

**J U D G E**