

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No.S-14 of 2026

Applicant : Javed son of Jalaluddin *alias* Sojhro Choliyani, *through* Mr. Safdar Ali G. Bhutto, Advocate.

The State : *Through* Mr. Nazeer Ahmed Bangwar, Deputy Prosecutor General.

Date of hearing : 18.06.2026.
Date of decision : 18.06.2026.

ORDER

Ali Haider 'Ada' J:- Through this bail application, the applicant seeks post-arrest bail in Crime No.68 of 2020, registered at Police Station Tangwani, at the instance of complainant Meer Khan son of Rasool Bux Choliyani, for offences punishable under Sections 302, 114, 337-H(2), 148 and 149 PPC. Prior to filing the instant application, the applicant approached the learned trial Court for the same relief but remained unsuccessful.

2. Briefly stated, the prosecution case is that on 10.10.2020, when the complainant party had arrived at the Court premises, the present applicant, along with his co-accused, allegedly committed the murder of Moula Bux *alias* Nadir during police custody and thereafter fled from the place of occurrence. It is alleged that one of the co-accused, namely Wilayat, was apprehended at the spot along with the weapon of offence. Subsequently, he faced trial and was convicted and sentenced by the competent Court of law.

3. The record further reflects that during the course of investigation the present applicant was found innocent and

was accordingly placed in Column No.2 of the challan. However, the learned Magistrate having jurisdiction disagreed with the opinion of the Investigating Officer and directed submission of challan against the applicant. Consequently, he was sent up to face trial. It further appears that the applicant was arrested on 09.10.2025, nearly five years after the occurrence.

4. Learned counsel for the applicant submits that although the applicant has been nominated in the FIR with a specific role, the subsequent investigation has materially weakened the prosecution case against him. He contends that the incident admittedly took place within the Court premises where several police officials and duty personnel were present for security purposes, particularly because the deceased was in police custody at the relevant time. Learned counsel argues that the statements of the independent police witnesses recorded under Section 161 Cr.P.C., including PC Irshad Ahmed, Constable Siraj Ahmed, Constable Muhammad Ayooob, HC Ali Hassan, PC Sohail Ahmed, Constable Altaf Mahar, PC Barkat Ali, HC Fateh Ali, Constable Fazal Din, PC Abdul Rasheed and PC Muhammad Hayat, do not disclose either the presence or participation of the present applicant in the commission of the offence. Rather, according to these witnesses, co-accused Wilayat alone fired upon the deceased. He submits that it was based on these statements that the Investigating Officer concluded that the applicant was innocent. Learned counsel further contends that mere abscondence or delayed arrest cannot by itself defeat a claim for bail where the facts of the case otherwise call for further inquiry within the meaning of Section 497(2), Cr.P.C. He argues that the evidentiary value of the statements of independent witnesses and the finding of innocence recorded during investigation create sufficient doubt requiring deeper

examination during trial. He, therefore, prays for the grant of post-arrest bail to the applicant.

5. On the other hand, ASI Rahim Bux of Police Station Tangwani has appeared and filed an endorsement regarding service upon the complainant. According to the endorsement, the complainant Meer Khan is himself absconding in FIR No.88 of 2020. A copy of the said FIR has also been placed on record. Despite service, no one has appeared on behalf of the complainant to contest the present application. Learned Deputy Prosecutor General Sindh opposes the application and submits that the ocular account is fully corroborated by the medical evidence. He contends that the opinion of the Investigating Officer exonerating the applicant loses significance once the learned Magistrate disagreed with such opinion and directed submission of challan against him. He further submits that the applicant remained at large for nearly five years and was ultimately arrested in 2025. According to the learned D.P.G., the conviction of co-accused Wilayat arising out of the same occurrence lends support to the prosecution case. He further points out that a Joint Investigation Team (JIT) was constituted, which also concluded that the present applicant was involved in the commission of the offence. On these submissions, he submits that the applicant is not entitled to the concession of post-arrest bail.

6. Heard the learned counsel for the parties and perused the available record.

7. At this stage, a tentative assessment of the available material is required for determining the merits of the bail application. In this regard, reliance is placed upon **Abdul Rehman alias Muhammad Zeeshan v. The State and others (2023 SCMR 884)** and **Khair Muhammad and another v. The**

State (2021 SCMR 130). Keeping in view the tentative assessment of the material available on record, it appears that although the name of the applicant finds mention in the FIR with a specific allegation, mere nomination in the FIR, without corroboration from the available evidence, is not by itself sufficient to deprive an accused of his liberty, particularly where the record otherwise presents circumstances warranting further inquiry into his involvement in the alleged offence.

8. It is a settled principle of criminal jurisprudence that every accused is presumed innocent until proven guilty through legally admissible evidence. Such presumption remains attached to an accused throughout the trial and operates in his favour at the bail stage. Since personal liberty is involved, the Court is required to undertake a careful and tentative assessment of the available material while deciding a bail application. In this regard, reliance is placed upon **Zaigham Ashraf v. The State (2016 SCMR 18).**

9. It is equally well-settled that the mere gravity or heinousness of an offence is not by itself sufficient to deny bail if the case otherwise calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Nor can bail be withheld as a measure of punishment before conviction. Reliance is placed upon **Husnain Mustafa v. The State and another (2019 SCMR 1914).**

10. It is further settled that the grant of bail does not amount to an acquittal; rather, it merely secures the liberty of an accused during the pendency of trial subject to furnishing the requisite surety. Reference may be made to **Haji Muhammad Nazir v. The State (2008 SCMR 807).**

11. The perusal of the record further reflects that no independent corroborative piece of evidence is presently available connecting the applicant with the commission of

the alleged offence. Admittedly, the occurrence took place within the Court premises where several police officials were performing official duty. The statements of those duty officials, recorded by the Investigating Officer under Section 161 Cr.P.C., reveal that although multiple accused persons were nominated in the FIR, they did not attribute any role to the present applicant. Rather, they consistently stated that only co-accused Wilayat was present at the scene and had fired upon the deceased. Thus, a material inconsistency emerges between the ocular account furnished in the FIR and the statements of the independent police witnesses. At this tentative stage, such inconsistency creates doubt regarding the involvement of the applicant and the benefit thereof, in accordance with settled principles of criminal jurisprudence, must accrue to the accused for the purpose of bail.

12. So far as the contention of the learned Law Officer regarding the findings of the Joint Investigation Team (JIT) is concerned, the same does not presently advance the prosecution case to the extent of disentitling the applicant from the concession of bail. The record reflects that the first Investigating Officer, after examining the available material, found the applicant innocent and placed him in Column No.II. Subsequently, the JIT expressed a contrary opinion and observed that the applicant was involved in the commission of the offence as a chance accused. Thus, two divergent opinions have emerged during the course of investigation. The determination as to which opinion carries greater evidentiary value requires deeper appreciation of evidence and examination of the material on record, which is the exclusive domain of the trial Court. At this stage, such conflicting investigative conclusions create a circumstance warranting further inquiry within the meaning of Section 497(2), Cr.P.C., the benefit whereof, at least tentatively, must accrue to the

applicant. It is a settled principle of law that although the Court is not bound by the conclusions of the Investigating Officer, the findings reached during investigation constitute a relevant circumstance for tentative assessment at the bail stage. In this regard, reliance may beneficially be placed upon the judgment of the Hon'ble Supreme Court of Pakistan in **Abdul Rehman v. The State (2023 SCMR 2081)**.

13. Additionally, the alleged abscondence of the applicant is concerned, it is by now a settled principle of law that mere abscondence, by itself, is not sufficient to deny the concession of bail if the accused is otherwise entitled to such relief on merits. Reliance is placed upon **Mazhar Ali v. The State (2025 SCMR 318)** and **Mitho Patafi v. The State (2009 SCMR 299)**.

14. It is also a settled principle of law that the benefit of doubt can even be extended at the bail stage where the material available on record creates a reasonable doubt regarding the involvement of the accused. Reliance in this regard is placed upon the case of **Naveed Sattar v. The State (2024 SCMR 205)**.

15. For the foregoing reasons and upon a tentative assessment of the material available on record, it appears that the case of the applicant falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. Consequently, the instant bail application is allowed, and the applicant is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

16. It is clarified that the observations made herein are purely tentative in nature and shall not prejudice either party

during the trial, which shall be decided strictly on the basis of the evidence produced before the competent Court.

JUDGE