IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No.S-163 of 2026

Applicant	:	Qurban son of Mehboob Ali by caste Chandio, *through* Mr. Habibullah G. Ghouri, Advocate.
Complainant	:	Nazeer Ahmed son of Imamuddin Mugheri, *through* Mr. Ahsan Ahmed Qureshi, Advocate.
The State	:	Through Mr. Nazeer Ahmed Bangwar, Deputy Prosecutor General.
Date of hearing	:	04.06.2026.
Date of Order	:	04.06.2026.

ORDER

Ali Haider 'Ada' J:- Through this bail application, the applicant, Qurban, seeks the concession of post-arrest bail in Crime No. 13 of 2026, registered at Police Station Taluka Larkana, for offences punishable under Sections 302, 324, 109, 148 and 149, P.P.C. The FIR was lodged on 23.02.2026 at about 12:30 p.m. regarding an incident alleged to have occurred on 22.02.2026 at about 3:30 p.m. It is pertinent to note that the pre-arrest bail application of the applicant was earlier dismissed by the learned trial Court on 12.03.2026. Thereafter, he was arrested and his post-arrest bail application was also dismissed by the learned trial Court vide order dated 03.04.2026.

2. Briefly, the prosecution case is that the present applicant, along with his co-accused, duly armed with hatchets and other weapons, formed an unlawful assembly and attacked the complainant party. The applicant was alleged to have caused a hatchet blow to complainant Nazeer Ahmed, resulting in injury to his head, while seven persons sustained injuries during the occurrence and one Abdul Razak succumbed to the injuries. The

incident was initially reported to the police by one Hazoor Bux through a roznamcha entry recorded on 22.02.2026, wherein the names and collective roles of the accused persons were disclosed. During the course of investigation, three co-accused persons were found innocent and were let off by the Investigating Officer.

3. Learned counsel for the applicant contends that no specific role has been attributed to the applicant in causing the fatal injuries to deceased Abdul Razak. According to him, the allegation against the applicant is confined to causing an injury to the complainant, which does not attract the prohibitory clause. He submits that the Medical Officer has declared the head injury sustained by the complainant as *Shajjah-e-Khafifah* punishable under Section 337-A(i), P.P.C., while the other injury noted in the medical certificate, namely *Jurh Ghayr Jaifah Damiyah*, has not been attributed to the applicant. He further argues that there is delay in lodging the FIR and that the alleged recovery was effected after considerable delay. Learned counsel submits that after dismissal of the applicant's pre-arrest bail application, it is highly improbable that he would be strolling in the area while carrying the alleged weapon, thereby rendering the recovery doubtful and creating the possibility of false foistation of the crime weapon. He, therefore, contends that the matter calls for further inquiry and prays for grant of post-arrest bail. In support of his submissions, he has relied upon the case reported as 1996 SCMR 1125.

4. Conversely, learned counsel for the complainant has opposed the bail application and submits that the applicant has been specifically nominated in the FIR with an active role. He argues that the applicant not only facilitated his co-accused but also directly participated in the occurrence by causing injury to the complainant. He further submits that the incident took place in the village of the complainant, where the accused persons allegedly arrived in a pre-planned manner and committed the offence. According to him, it is

a broad daylight occurrence and there is no possibility of mistaken identity or false implication, particularly when the applicant was duly identified by the prosecution witnesses. Learned counsel further contends that the ocular account is fully corroborated by the medical evidence and that the recovery of the crime weapon lends further support to the prosecution case. He submits that the contentions regarding the manner of recovery require deeper appreciation of evidence, which is not permissible at the bail stage. In support of his arguments, he has relied upon the cases reported as 2000 SCMR 78, 2012 SCMR 556, 2005 SCMR 1496, 1998 SCMR 358, 1981 SCMR 1092, 2003 SCMR 64, 1979 SCMR 65, 2002 SCMR 442, 1997 SCMR 445, 2010 MLD 850, 2010 MLD 1608, 2002 PCr.L.J. 1277, 2011 MLD 1273, 2000 PCr.L.J. 60, 1997 PCr.L.J. 866, PLD 2007 Sindh 336, 2003 MLD 72, 2000 PCr.L.J. 315 and 2010 MLD 1813. He further submits that the authority relied upon by the learned defence counsel is distinguishable on facts, as the same was based upon the rule of consistency.

5. Learned Deputy Prosecutor General, Sindh, has also opposed the bail application and submits that recovery was effected from the applicant, he has been specifically implicated in the occurrence. He further submits that the injury attributed to the applicant are minor in nature, whereas the co-accused responsible for the fatal injuries are still absconding.

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

7. At the stage of deciding the instant bail application, it is necessary, for reaching a just and proper conclusion, to tentatively examine the merits of the case. In this regard, reliance is placed upon the judgments rendered in *Abdul Rehman alias Muhammad Zeeshan v. The State and others* **(2023 SCMR 884) and** *Khair Muhammad and another v. The State* **(2021 SCMR 130).**

8. First and foremost, the alleged incident took place on 22.02.2026 at about 3:30 p.m., whereas the FIR was lodged on the following day, i.e., 23.02.2026, at about 12:30 p.m. Although the prosecution maintains that one person lost his life and seven others sustained injuries during the occurrence, the record reveals that the injured persons were referred to the hospital through a police letter on 22.02.2026, as reflected in the medical certificates. Despite the availability of police machinery and the seriousness of the occurrence, the complainant party did not promptly set the criminal law into motion by lodging the FIR without delay. Furthermore, the prosecution has relied upon a roznamcha entry dated 22.02.2026 allegedly recorded on the information furnished by one Hazoor Bux, wherein a general allegation was levelled against the accused party regarding the commission of the offence. However, it is noteworthy that the said Hazoor Bux has neither been cited as a witness in the FIR nor has his presence at the place of occurrence been shown by the prosecution. Therefore, the evidentiary value and significance of the said entry require further examination during trial. At this tentative stage, the delay in registration of the FIR assumes significance and cannot be overlooked. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court of Pakistan in the case of *Mazhar Ali v. The State* **(2025 SCMR 318)**, wherein, while deciding a post-arrest bail matter, the delay of approximately 13 hours and 50 minutes in lodging the FIR was treated as a material circumstance warranting further inquiry within the contemplation of Section 497(2), Cr.P.C.

9. Furthermore, the prosecution case against the present applicant is that he facilitated the co-accused in the commission of the offence. However, the precise nature and extent of such facilitation, as well as its legal consequences, are matters which require thorough examination during the course of trial. In support of this view, reliance is placed upon the cases of *Binyameen v. The*

State through A.G., Khyber Pakhtunkhwa and another **(2026 SCMR 99)** and *Ghulam Hyder v. The State* **(2021 SCMR 1802)**.

10. Moreover, the specific allegation against the present applicant is that he caused an injury to the complainant on his head. The medical evidence reveals that the said injury has been classified as *Shajjah-e-Khafifah* punishable under Section 337-A (i), P.P.C., which is a bailable offence. Therefore, while tentatively assessing the role attributed to the applicant, it appears that the injury allegedly caused by him does not fall within the prohibitory clause of Section 497, Cr.P.C. Legally speaking, where an accused is charged with an offence that is bailable in nature, the grant of bail is a matter of right. Consequently, the applicant is entitled to have his case considered in light of the settled principle that in offences not falling within the prohibitory clause, grant of bail is the rule and refusal thereof is an exception. Support for this view is drawn from the judgment of the Hon'ble Supreme Court of Pakistan in *Muhammad Akhtar v. The State* **(2025 SCMR 1631)**.

11. As regards the alleged recovery of the crime weapon, the prosecution case is that after dismissal of the applicant's pre-arrest bail application on 12.03.2026, he was found strolling in the area while armed with the said weapon and was subsequently arrested by the police. Prima facie, this aspect requires further probe. Whether the applicant, after having appeared before the Court and suffered dismissal of his pre-arrest bail application, would continue to carry the alleged weapon and move openly in the locality is a question that can only be resolved after recording evidence during trial. Therefore, at this stage, no conclusive inference can be drawn from the alleged recovery alone. Even otherwise, the mere recovery of a weapon, by itself, does not constitute reasonable grounds for believing that an accused is guilty of the offence. A recovery, standing alone, is ordinarily insufficient either to sustain a conviction or to conclusively connect an accused with the

commission of the offence. In this regard, reliance is placed upon *Sheraz v. The State* **(2021 MLD 292)** and *Yousif Ali Khan v. The State* **(2021 PCr.L.J. 17).**

12. In addition, a perusal of the record reveals that during the course of investigation, the Investigating Officer found three nominated co-accused persons innocent and consequently placed them in Column No. II of the report under Section 173, Cr.P.C. Significantly, said co-accused were assigned roles similar in nature. The fact that certain nominated accused, who were specifically implicated in the FIR, have been exonerated during investigation constitutes a relevant circumstance requiring cautious consideration at the bail stage. In this context, reliance is placed upon the judgment of the Hon'ble Supreme Court of Pakistan in *Abdul Rehman v. The State* **(2023 SCMR 2081)**.

13. It is a settled principle of criminal jurisprudence that every accused is presumed to be innocent until proven guilty through legally admissible evidence. The presumption of innocence remains attached to an accused throughout the trial and, at the bail stage, such presumption operates in his favour. Since the liberty of the person is involved, the matter requires careful and cautious consideration in accordance with law. The curtailment of personal liberty is a serious matter and, therefore, while considering a request for bail, the Court is required to apply its judicial mind with utmost care so as to reach a fair and proper tentative conclusion. Such an exercise cannot be undertaken in a mechanical, casual, or perfunctory manner, as doing so may result in serious miscarriage of justice. Therefore, extraordinary care and caution must be exercised while granting or refusing bail, particularly in cases involving offences carrying severe punishments, including capital punishment. In this view, guidance may be sought from the judgment of the Hon'ble Supreme Court of Pakistan in *Zaigham Ashraf v. The State* **(2016 SCMR 18)**.

14. It is a settled principle of law that it is preferable to err in granting bail rather than in refusing the same, as any error in the grant of bail can subsequently be rectified through conviction and sentence. In support of this proposition, reliance is placed upon the judgment rendered in *Ahmad Nawaz and another v. The State and another* **(2024 SCMR 1525).**

15. It is by now a firmly established and recognized principle of criminal jurisprudence that the mere gravity or heinousness of an offence cannot, by itself, be made a ground to refuse bail, if otherwise the case of the accused calls for further inquiry. Likewise, bail cannot be withheld as a measure of punishment. Support is placed upon the case of *Husnain Mustafa v. The State and another* **(2019 SCMR 1914).**

16. It is a recognized principle of law that the grant of bail is merely for the purpose of securing the release of an accused upon furnishing surety and does not, in any manner, amount to an acquittal. This principle finds support from the judgment in *Haji Muhammad Nazir v. The State* **(2008 SCMR 807).**

17. 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).**

18. For the foregoing reasons and discussion, I am of the tentative view that the case of the applicant falls within the ambit of further enquiry 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 his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

19. It is clarified that the observations made herein are purely tentative in nature and shall not influence the learned trial Court while deciding the case on merits, which shall be determined strictly in accordance with law and on the basis of evidence brought on record.

JUDGE