

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Bail Application No. S – 1063 of 2025

Applicant: Ayoub S/o Ratto Faqueer, by caste Mahar through Mr. Mujeeb-ur-Rehman Malano, Advocate.

State: Through Syed Sardar Ali Shah, Additional Prosecutor General.

Complainant: Abdul Aziz S/o Kouro Mahar through Mr. Aftab Ahmed Malano, Advocate.

Date of Hearing: 10.07.2026

Date of Order: 10.07.2026

ORDER

Zulfiqar Ali Sangi, J.- Applicant/accused Ayoub has sought post-arrest bail in connection with FIR No.95 of 2015 registered at Police Station Baiji Sharif, District Sukkur, for offences punishable under Sections 302, 148, 149 and 114, P.P.C. It is pertinent to mention that the earlier post-arrest bail application moved by the applicant before the learned Additional Sessions Judge, Pano Aqil, was dismissed vide order dated 14.10.2025.

2. The facts and circumstances giving rise to the instant prosecution have already been comprehensively set out in the bail application as well as in the copy of the F.I.R. appended therewith. Therefore, in order to avoid unnecessary repetition and prolixity, the same are not reproduced herein. In this regard, reliance is placed upon the dictum laid down by the Honourable Supreme Court of Pakistan in Muhammad Shakeel v. The State and others (PLD 2014 SC 458), wherein it has been held that reproduction of the contents of the F.I.R. in judicial orders is not an indispensable requirement when the relevant facts are otherwise available on the record.

3. Learned counsel for the applicant contended that the applicant has falsely been implicated on account of previous murderous enmity existing between the parties. It was argued that although a specific role of firing has been attributed to the applicant in the F.I.R., the prosecution evidence subsequently recorded before the trial Court has materially changed the complexion of the case. Learned counsel submitted that during the trial of the co-accused, the complainant and the eye-witness did not support the prosecution version against the accused facing trial, as a result whereof the learned trial Court acquitted co-accused Budho, who

had allegedly been assigned an active role of firing, along with other co-accused, vide judgment dated 11.11.2020. It was further contended that the role attributed to the present applicant is substantially similar to that attributed to co-accused Budho, who has already been acquitted after recording of prosecution evidence; therefore, the applicant is entitled to the benefit of consistency. It was also argued that the applicant's alleged abscondence by itself is not sufficient to disentitle him to the concession of bail when otherwise the case calls for further inquiry within the meaning of Section 497(2), Cr.P.C. In support of his contentions, he relied upon case of Inayatullah v. The State (PLD 2003 Karachi 416).

4. Conversely, learned Deputy Prosecutor General assisted by learned counsel for the complainant opposed the bail application. They contended that the applicant is specifically nominated in the F.I.R. with the allegation of causing firearm injuries to the deceased and that the ocular account is corroborated by the medical evidence. It was argued that the acquittal of co-accused cannot automatically entitle the present applicant to bail as his case stands on a different footing, particularly because he was shown as an absconder and did not face trial along with the acquitted accused. They prayed for dismissal of the bail application.

5. I have heard the learned counsel for the respective parties at considerable length, examined the available record with their able assistance, and have given anxious consideration to the submissions advanced.

6. Tentative assessment of the record reveals that the prosecution case is founded upon the ocular account furnished in the F.I.R., wherein the applicant has been attributed the role of making firearm shots upon the deceased. It is equally true that the offence falls within the prohibitory clause of Section 497, Cr.P.C. Nevertheless, at the stage of bail, the Court is required to tentatively assess the entire material available on record in order to ascertain whether there exist reasonable grounds for believing that the accused has committed the offence or whether the case calls for further inquiry.

7. A significant circumstance emerging from the record is that during the trial of the co-accused, the complainant Abdul Aziz, while

appearing before the trial Court, did not support the prosecution case against the accused then facing trial and candidly stated that he had not named them during his examination-in-chief as he had forgiven them. Likewise, prosecution witness Muhammad Saleem also failed to support the prosecution case against the accused before the trial Court. Ultimately, after evaluating the entire prosecution evidence, the learned Additional Sessions Judge acquitted co-accused Budho, Atta Muhammad @ Gogal, Karam Khan, Bajhi, Gabar, Atta Muhammad @ Agan, Tajoo and Latif under Section 265-H(i), Cr.P.C., holding that the prosecution had failed to establish the charge against them.

8. It is noteworthy that co-accused Budho was alleged in the F.I.R. to have actively participated in the occurrence and was specifically attributed a role in the commission of the offence. However, despite such allegation, he was acquitted after recording of the prosecution evidence. The evidence which resulted in the acquittal of the said co-accused forms part of the present record and cannot be ignored while tentatively assessing the case of the present applicant. At least for the limited purpose of bail, the acquittal of a co-accused having a substantially similar role constitutes a relevant circumstance attracting the principle of consistency.

9. It is also not without significance that the learned trial Court, while acquitting the co-accused, observed that the complainant and eye-witnesses had not identified the accused before it as the actual perpetrators and that the prosecution had failed to bring any tangible material connecting them with the commission of the offence. Such observations, though not conclusive against the prosecution in the present proceedings, nevertheless create a substantial question requiring deeper appreciation during trial.

10. As regards the objection that the applicant remained absconding, it is settled that abscondence by itself does not constitute an absolute bar to the grant of bail where otherwise the available material brings the case within the ambit of further inquiry under Section 497(2), Cr.P.C. The effect of the applicant's conduct and the reasons for his non-arrest are matters to be examined by the learned trial Court at the appropriate stage and cannot, in the

peculiar facts of the present case, outweigh the other circumstances discussed above.

11. Without expressing any opinion on the ultimate merits of the prosecution case, the cumulative effect of the prosecution witnesses not supporting the case against the co-accused during trial, the acquittal of a co-accused allegedly assigned a similar role, the existence of admitted previous enmity between the parties, and the necessity for a deeper appreciation of evidence persuades this Court to hold that the case of the applicant, at least tentatively, falls within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C.

12. Consequently, the applicant Ayoub is admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Lac only) and a personal recognizance bond in the like amount to the satisfaction of the learned trial Court.

13. It is clarified that all observations made herein are purely tentative in nature, confined exclusively to the disposal of the present bail application, and shall not prejudice or influence the learned trial Court, which shall decide the case strictly on the basis of the evidence produced before it and in accordance with law.

14. This Criminal Bail Application was earlier heard and allowed in open Court through short order dated **10.07.2026**, whereby the applicant was admitted to post-arrest bail. The foregoing are the reasons in support of the said short order

JUDGE