

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-1141 of 2025
(Roshan and another v. The State)

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicants	: (i) Roshan s/o Hamzo Khan (ii) Mazoor Ali s/o Jaro Khan through Mr. Sohbat Ali Lund Advocate
Informant	: Sono s/o Gulsher, through Mr. Manzoor Ali Laghari Advocate
State	: Ms. Sana Memon, Assistant Prosecutor General.
Date of hearing:	20.04.2026
Date of order	: 27.04.2026

*FIR No. 87 of 2025, P.S. Johi,
u/s 302, 436, 147, 148, 149, 504,
337-H(ii), 337-A(i) PPC*

ORDER

Adnan Iqbal Chaudhry, J. – Applicants, Roshan and Manzoor Ali pray for pre-arrest bail in the aforesaid FIR after the same has been declined by the Additional Sessions Judge-II, Dadu by order dated 17.09.2025.

2. FIR No. 87/2025 made by the Informant (Sono) on 21.08.2025 was in the background of hostility between him and Allan Mastoi (principal accused). It was reported that Allan Mastoi along with co-accused Roshan (Applicant No.1), Rustam, Hakim, Himat Ali and Manzoor (Applicant No.2), all bearing firearms, came outside the Informant's home at 9:00 a.m. on said day, and set fire to a hedge outside the Informant's home; that when the Informant, his brothers Ali Nawaz (deceased) and Asif Ali (injured), and their uncle Ali Hassan rushed outside, Allan Mastoi (principal accused) fired upon Ali Nawaz, the shot hitting him on the head; that Roshan (Applicant No.1) hit Asif Ali on the head with the butt of his gun; thereafter, the accused persons fled from the scene while making aerial firing.

3. On 26.08.2025, Ali Nawaz succumbed to his injury and died at a hospital in Hyderabad. Therefore, section 302 PPC was added to the challan.

4. Heard learned counsel and perused the record.

5. By a separate order on the connected Bail Application No. S-209/2025, this Court has granted post-arrest bail to the co-accused Himat Ali. However, it is settled law that consideration for post-arrest bail is different from pre-arrest bail, the latter being an extraordinary concession where bail is not granted unless the accused can show that the arrest apprehended is actuated by *malafides* of the Informant or the Police (*Mukhtar Ahmed v. The State*, 2016 SCMR 2064). Therefore, for pre-arrest bail, the Applicants cannot bank on the rule of consistency.

Bail application by Roshan (Applicant No.1):

6. Applicant No.1 has been assigned a specific role in the FIR i.e. of hitting Asif Ali on the head with the butt of his gun. The medico legal report of the injury suffered by Asif Ali corroborates that he was hit on the head with a hard and blunt object. Though that injury is classified as *shajjah-i-khafifah* under section 337-A(i) PPC which is a bailable offence, nevertheless such circumstance suggests that the Applicant No.1 was at the crime scene as part of the unlawful assembly. Therefore, the allegation that Applicant No.1 shared a common intention to commit the murder of Ali Nawaz (deceased), a non-bailable offence, does not appear to be an allegation made with *malafides*.

Bail application by Manzoor (Applicant No.2):

7. In the FIR, the fire shot to Ali Nawaz (deceased), so also the injury to Asif Ali, are not attributed to Applicant No.2. Though it is alleged that Applicant No.2 was part of the unlawful assembly in front of the Informant's home and acting with common intention, but no specific role is assigned to him.

8. It was alleged in the FIR that Applicant No.1 was brandishing a pistol. But then, only 1 crime empty was recovered from the crime scene, that too of a 12-bore gun, which firearm is attributed to Allan Mastoi (principal accused). There is no evidence that any other firearm was discharged at the crime scene.

9. As regards the offence alleged under section 436 PPC, that seems to be attracted where mischief by fire is intended to cause destruction to a building ordinarily used as a place of worship, human dwelling or for custody of property. There is no evidence that a fire had damaged the Informant's home. In any case, it has yet to be proved that the fire set to the hedge outside the Informant's home was with the intent to burn or damage his home.

10. In the aforesaid circumstances, it may well be, as argued for Applicant No.2, that was not part of the unlawful assembly that committed the aforesaid crime; and that he was falsely implicated by throwing a wider net due to his relation with the principal accused.

11. In view of the foregoing, application for pre-arrest bail by Roshan (Applicant No.1) is dismissed; whereas, application for pre-arrest bail by Manzoor Ali (Applicant No.2) is granted in FIR No. 87/2025 subject to furnishing solvent surety in the sum of Rs. 200,000/- [Rupees Two Hundred Thousand only] along with P.R. Bond in like amount to the satisfaction of the Additional Registrar of this Court. The surety already submitted by him for interim pre-arrest bail may be adjusted.

Needless to state that observations herein are tentative and are not to be construed to prejudice the case of the prosecution at trial.

JUDGE

Ali Haider