

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

1. Crl. Bail Application No. S- 655 of 2026

Applicants: 1. Kashif Ali,
2. Wajid Ali, both sons of Ali Sher alias Kando through Syed Jaffer Ali Shah, Advocate.

2. Crl. Bail Application No. S- 687 of 2026

Applicants: Moharram son of Ghous Bux bycaste Jalbani through Mr. Wajid Ali Shaikh,
The State Through Mr. Mansoor Ahmed Shaikh, D.P.G along with Moharram Ali father, of deceased.

Date of hearing & Order: 05-10-2026.

ORDER.

Suresh Kumar, I --- Through this common order I intend to dispose of two bail applications separately filed on behalf of abovenamed applicants/accused, arising out of same crime No. 205/2024, offence u/s 302, 311 PPC registered at Police Station Mirwah.

2. Briefly, the facts of the prosecution case as depicted in the FIR are that on 04.10.2024, the complainant, ASI Moharram Ali Shar, lodged the FIR alleging that he, along with his subordinates, left the police station for patrolling. Acting on spy information, he reached village Rahim Khan Jalbani near the house of the accused, Zulifqar, at 2100 hours. The complainant's party, using the light from their vehicle, saw and identified the accused Shoukat Ali, Barkat Ali with pistols, Nadeem Ali with a gun, Wajid Ali, and Moharram with a hatchet. Upon seeing the police, the accused fled. The police then discovered the dead body of a woman, at which point Zulifqar Ali disclosed that Shoukat Ali had committed her murder with the assistance of the aforementioned accused. Subsequently, the police brought the dead body to Mirwah Hospital, and after the post-mortem examination, the body was handed over to Zulifqar Ali Jalbani, ultimately leading to the lodging of the above FIR..

3. The applicants initially sought post-arrest bail from the Court of the learned Additional Sessions Judge Mirwah, which were dismissed via order dated 06.11.2024 and 09.01.2025. Aggrieved by this dismissal, the applicants have approached this Court.

4. I have heard the learned counsel appearing on behalf of the applicants/accused and the learned Deputy Prosecutor General for the State so also Moharram Ali, legal heir of deceased who have strongly opposed for grant of bail.

5. I have given due consideration to the arguments advanced by the learned counsel for the applicants/accused and the learned Deputy Prosecutor General for the State. From the perusal of the FIR, it is revealed that the applicants/accused Moharram, Kashif, Wajid Ali, along with Shoukat, Nadeem, and Barkat, escaped upon seeing the police party. Thereafter, the complainant's party observed that the dead body of the deceased, Mst. Raheela, was lying on a cot while her family members were weeping nearby. The record further reveals that the P.Ws Zulfiqar Ali and Ali Muhammad, who are the father and uncle of the deceased, respectively, have recorded their statements under Section 161 of the Code of Criminal Procedure and specifically nominated Shoukat's role, while the present applicants are shown to have shared a common object and were present at the scene of the incident. From the available record, it appears that the applicants/accused have not been assigned the role of causing the firearm injury to the deceased; they allegedly share a common object. It is well-settled law that vicarious liability cannot be determined at the bail stage; therefore, the case against the applicants/accused falls within the ambit of further inquiry as embedded in Section 497(2) of the Code of Criminal Procedure. In the case of *Attaullah vs. The State through AG Khyber Pakhtunkhwa and another* (2020 SCMR 451), the Honourable Supreme Court has held as follows:-

“---S. 497---Penal Code (XLV of 1860), Ss. 302, 324, 148 & 149---Qatl-i-amd, attempt to commit qatl-i-amd, rioting armed with deadly weapons, unlawful assembly---Bail, grant of--- None of the deceased persons was alleged to have been hit by any shot fired by the accused---No injury to any of the victims had been attributed to the accused--- Although accused remained an absconder for seven long years, however since no reasonable ground was urged to deny bail to him, and since he was no more required for investigation, it was appropriate to grant bail to him--- Accused was granted bail in circumstances”.

6. Similar view has been expressed in the case of Mazher Hussain vs. The State and another (2012 SCMR 887). Further reliance is placed on the cases of Muhammad Ibraheem and another vs. The State (2020 P.Cr.L.J Note 90) and Rehmatullah and another vs. The State (2019 P.Cr.L.J Note 133). Moreover, the applicants/accused have been in custody for about two years, and the trial has not been concluded. It is well-settled law that an accused cannot be detained for an indefinite period without trial.

7. For the foregoing reasons and guidance taken from the above case laws, I am of the considered view that the applicants/accused named above have successfully made out a case for the grant of post-arrest bail, therefore, they are granted bail subject to furnishing solvent surety in the sum of Rs. 200,000/- (Two lacs) each and PR bond in the like amount to the satisfaction of trial court.

8. Needless to mention that the above observations are tentative in nature and will not prejudice the case of parties at the time of trial.

9. The bail applications are disposed of in the above terms.

JUDGE

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