# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2641 of 2026

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| Applicant | : | Kashif Ali<br>son of Lutuf Ali<br>through Mr. Aijaz Chandio advocate |
| Respondent | : | The State<br>through Ms. Najma Latif Golo,<br>A.P.G. Sindh a/w Inspector Mumtaz Ali of PS KIA.. |
| Complainant | : | Ghulam Shabbir Laghari<br>son of Gul Basheer Laghari.<br>Through Mr. Aijaz Ali Lakho,<br>advocate |
| Date of hearing | : | 03.11.2026. |
| Date of order | : | 03.11.2026. |

**O R D E R**

***Jan Ali Junejo, J.*** – By this order, I intend to dispose of the above captioned bail application whereby applicant Kashif Ali son of Lutuf Ali seeks post arrest bail in Crime No.557 of 2026 registered at Police Station Korangi Industrial Area, Karachi for offences under Sections 302, 109 and 34 PPC. The Applicant's earlier post-arrest bail application was dismissed by the learned Additional Sessions Judge-I/(Model Criminal Trial Court), Karachi East vide order dated 28.07.2026. Being aggrieved, the Applicant has approached this Court.

2. The facts of the FIR, in brief are that the complainant Ghulam Shabbir Laghari lodged FIR bearing Crime No.557/2026 under Sections 302, 109 and 34, PPC, at Police Station Korangi Industrial Area (KIA), alleging therein that on 11.05.2026, at about 11:30 hours, his nephew Muhammad Saleh called him on his mobile phone No.0300-3937489 and informed him that a lady namely Mst. Fatima, using mobile phone No.0315-0133162, had fraudulently called his son, namely Majid Ali, to Mirani Chowk, Sector 15, Mehran Town, Karachi. Upon receiving the information, the complainant and his son Majid Ali proceeded to the said place, where they found Mst. Fatima standing along with two

unidentified persons on a motorcycle. Mst. Fatima identified and confirmed the presence of Majid Ali, whereupon two persons riding a motorcycle approached him, and accused Mazhar Ali allegedly fired four shots from his pistol at the head of Majid Ali and one shot at his chest. As a result, Majid Ali raised cries, whereupon all the accused persons fled from the spot, hence this FIR. .

3. Learned counsel for the applicant/accused contends that the applicant is innocent and has been falsely implicated in the present case, as his name does not find mention in the FIR. He further submits that the prosecution case is based on hearsay evidence, as no independent eyewitness has witnessed the commission of the alleged murder or directly implicated the applicant. He argues that no weapon, incriminating article or any other material has been recovered from the possession or at the pointation of the applicant, and his alleged involvement is based merely on suspicion and the instigation of co-accused Mst. Fatima. He further contends that the police officials have failed to establish the identity of the applicant at the time of his arrest, as neither the complainant nor any prosecution witness was present at the place of arrest, and all the mashirs are police officials. He also submits that no further statement under Section 161, Cr.P.C. has been recorded by the Investigating Officer wherein the complainant or any witness identified the applicant. Learned counsel further argues that co-accused Shaikh Noman Amjad, Masoom Chandio and Mst. Noreen alias Zahida have already been granted confirmation of bail by the learned Additional Sessions Judge-I, East, Karachi, vide order dated 22.07.2026; therefore, the rule of consistency is applicable to the case of the applicant. He further submits that the applicant has no criminal antecedents, is not a hardened or dangerous criminal, and the investigation has substantially been completed, hence he is no longer required for further custodial interrogation. He adds that the applicant is a permanent resident of Mehrabpur, District Naushahro Feroze, Sindh, has deep roots in society, and there is no likelihood of his absconding or tampering with the prosecution evidence. Lastly, he contends that the case of the applicant falls within the ambit of further inquiry as envisaged under Section 497(2), Cr.P.C., and he is entitled to the concession of post-arrest bail. The

applicant undertakes to attend the learned trial Court on each and every date of hearing and to comply with any condition imposed by this Honourable Court.

4. Conversely, the learned Assistant Prosecutor General, representing the State and duly assisted by learned counsel for the complainant, vehemently opposed the grant of post-arrest bail to the applicant/accused. It was argued that during the course of investigation, the applicant/accused was arrested. The alleged offence is of a heinous nature and falls within the prohibitory clause of Section 497 Cr.P.C. Therefore, the applicant/accused is not entitled to the concession of post-arrest bail.

5. I have heard the learned counsel for the applicant, the learned counsel for the complainant, and the learned APG for the State, and have carefully examined the material available on record with their able assistance.

6. Admittedly, the alleged offence is heinous in nature and falls within the prohibitory clause of Section 497, Cr.P.C.; however, mere inclusion of an offence within the prohibitory clause is not, by itself, sufficient to deny the concession of bail, where the material available on record calls for further inquiry into the guilt of the accused. In the present case, the name of the applicant does not find mention in the FIR. The role attributed to the applicant, his alleged involvement in the commission of the offence, and the nature of the evidence connecting him with the occurrence require deeper appreciation at the trial stage. At this juncture, no direct ocular evidence has been brought to my notice which specifically connects the applicant with the commission of the alleged murder. Moreover, no weapon or other incriminating article has been recovered from his possession or at his pointation. The alleged identification of the applicant and the circumstances surrounding his arrest also require further probe.

7. A careful perusal of the record, at this tentative stage, reveals that no allegation has been attributed to the present applicant as the principal

assailant. The prosecution version itself, even as per the material collected during investigation, indicates that the occurrence was committed by unknown armed persons on a motorcycle, whereas the present applicant is sought to be connected only in the capacity of alleged abettor on the premise that present applicant was present at the place of occurrence.

8. It is a well settled notion of law that further inquiry is a question which must have some nexus with the result of the case for which a tentative assessment of the material on record is to be considered for reaching a just conclusion. It pre-supposes the tentative assessment which may create doubt with respect to the involvement of the accused in the crime. The law of bails is not a stagnant law but is developing with the exigencies of time. The expression "reasonable grounds" as contained under section 497, Cr.P.C., necessitated the prosecution to show that it is in possession of sufficient material or evidence to demonstrate that accused had committed an offence falling within the prohibitory limb of section 497, Cr.P.C. However for seeking the concession of bail, the accused person has to show that the material or evidence collected during investigation against him creates reasonable doubt or suspicion in the prosecution case. While deciding bail applications, it is the foremost duty of the Courts to apply a judicious mind tentatively for reaching the just and proper conclusion regarding whether reasonable grounds are made out or not to enlarge the accused on bail, and the expression 'reasonable grounds' signifies and corresponds to the grounds which are legally rational, acceptable in evidence and attractive to the judicial mind, as opposed to being imaginative, fallacious and/or presumptuous. Whenever reasonable doubt ascends with regard to the involvement of an accused person in the crime or about the certainty or probability of the prosecution case and the evidence proposed to be produced in support of the charge in Court during trial, the accused should not be deprived of the benefit of bail and it would be better to keep him on bail than in jail. The basic idea is to enable the accused to answer the criminal prosecution against him rather than to make him rot behind bars. The accused is entitled to expeditious access to justice, which includes the right to a fair and expeditious trial without any unreasonable or inordinate delay. Certain basic principles regarding grant or refusal of bail are settled i.e.

that bail cannot be withheld as punishment; every person is presumed to be innocent unless found guilty by a competent court; every person is entitled to a fair trial, which includes a trial without inordinate delay; and that the basic philosophy of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and this principle applies at all stages including the pre-trial stage, and even at the time of deciding whether the accused is entitled to bail or not.

9. In such a situation, where serious doubts arise regarding the veracity of the prosecution case and the material available does not satisfy the requirement of prima facie guilt, the benefit must go to the accused even at the bail stage. As held by the Hon'ble Supreme Court in a catena of judgments including Muhammad Ejaz v. The State (**2022 SCMR 1271**), Muhammad Arshad v. The State **(2022 SCMR 1555**), Fahad Hussain v. The State **(2023 SCMR 365**), and Tariq Bashir v. The State (**PLD 1995 SC 34**), the principle that "benefit of doubt, if any, must always be extended to the accused" applies equally at the bail stage.

10. Since, co-accused persons namely 1) Mashooq Ali son of Bagho Khan Chandio, 2) Sheikh Noman Amjad son of Sheikh Muhammad Amjad, 3) Mst. Noreen Nadeem and 4)Muhammad Juriyal sonof Ali Hassan Khokhar on same sort of allegations are already on confirmed pre-arrest bail granted by learned trial court vide order dated 22.07.2026 and & 15.09.2026, therefore, applicant also deserves same concession on the rule of consistency. Reliance can be placed on case titled as Pir Bakhsh v. The State and others [2010 MLD 220], wherein it is held,

> "*6. Rule of consistency is always taken into consideration by the Courts since long because a person cannot be denied for the grant of bail whose case is at par of an accused who had already been released on bail. The Courts have to give equal treatment to the accused persons having one and the same role in the same case. Reliance upon the cases of Muhammad Fazal alias Bodi v. The State (1979 SCMR 9), Khadim Hussain v. The State (1983 SCMR 124), Manzoor Ahmad and others v. The State (PLJ 1999 Cr.C. (Lahore) 570) and Muhammad Daud and another v. The State and another (2008 SCMR 173). As the case of the petitioner is at par with that of his co-accused Zulifqar and Ghulam Rasool who had already been allowed bail by the learned Additional Sessions Judge, therefore, following the rule of consistency, the petitioner is also entitled to the bail*."

11. For the foregoing reasons, this Criminal Bail Application is allowed and the applicant/accused Kashif Ali son of Lutuf Ali is admitted to bail in FIR No.557 of 2026, under Section 302, 109, 34 PPC, registered at Police Station Korangi Industrial Area, Karachi, subject to furnishing solvent surety in the sum of Rs.1,00,000/- [Rupees One Lac only] and P.R. bond in the like amount to the satisfaction of the learned Trial Court. Needless to observe that the above observations are tentative in nature and shall not prejudice the case of either party at trial.

**JUDGE**