IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 2699 of 2026

Applicant	:	Noor Wali son of Umer Gul, through Mr. Habib ur Rehman Jiskani, advocate
The State	:	Through Ms. Tahira Depar, A.P.G. Sindh
Date of hearing	:	02.11.2026.
Date of order	:	02.11.2026.

O R D E R

Jan Ali Junejo, J. – Through this order, I intend to decide the instant post-arrest bail application filed under Section 497 Cr.P.C. by the applicant Noor Wali son of Umer Gul, who seeks his release on bail in connection with FIR No.386 of 2026 registered at Police Station Boat Basin, Karachi for the offences punishable under Section 302/324/34 PPC R/w Section 394/397 PPC. The applicant has approached this Court being aggrieved by the order dated 25.07.2026 passed by the learned Additional Sessions Judge-I/(Model Criminal Trial Court), Karachi South whereby his bail application was declined.

2. Briefly stated, as per contents of the FIR, it was reported by ASI Sajjad Ahmed that with reference to Roznamcha entry No.38 dated 27.05.2026, investigation was being conducted by him regarding an incident in which one person had lost his life while another had sustained firearm injuries. It was stated that the statements of the legal heirs of the deceased and the injured could not initially be recorded due to their unavailability. Upon receiving information from an Edhi ambulance driver, he proceeded to Jinnah Postgraduate Medical Centre (JPMC), where one injured person and the dead body of Muhammad Shahroze Ali Khan were found. After obtaining permission from the Medical Legal Officer, proceedings under Section 174 Cr.P.C. were conducted by him and the postmortem examination of the deceased was completed, whereafter the dead body was handed over to the legal heirs. During

inquiry, the injured Zohaib Siddiqui disclosed before him that while he, the deceased and another companion were proceeding towards Sea View on a motorcycle after having a meal at Boat Basin, three unknown persons riding a motorcycle approached them near Khayaban-e-Sahil and opened indiscriminate fire upon them, as a result whereof Muhammad Shahroze Ali Khan sustained fatal firearm injuries and later succumbed to the same, while Zohaib Siddiqui also received firearm injuries. Hence this FIR.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated in the present case due to malafide and ulterior motives and mere suspicion, as he has no nexus whatsoever with the alleged offence. He submits that the alleged incident took place on 27.05.2026, whereas the FIR was registered on 03.06.2026 after an unexplained delay of about seven days, which creates serious doubt regarding the prosecution story. He further submits that the applicant was neither nominated in the FIR nor was any description or identifying feature of him disclosed therein, and the complainant is admittedly not an eyewitness of the alleged occurrence, as the FIR was lodged by a police official on the basis of information collected during investigation. He contends that the material eyewitnesses, namely Muhammad Adnan and Muhammad Zohaib Siddiqui, in their statements recorded under Section 161 Cr.P.C. on 10.06.2026, categorically stated that they could not identify the accused persons involved in the occurrence, while neither the legal heirs of the deceased nor the injured witnesses have furnished any statement identifying or implicating the applicant. He further submits that the family/legal heirs of the deceased do not wish to pursue the matter against the applicant, and no Test Identification Parade was conducted during investigation. Learned counsel argues that the prosecution case is primarily based upon an alleged disclosure/confessional statement made by the applicant before the police during custody, which is inadmissible under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, and no confession under Section 164 Cr.P.C. was recorded before any learned Judicial Magistrate. He further contends that no independent or legally admissible evidence, CCTV footage, video recording, forensic or digital evidence has been collected to connect the applicant with the alleged offence, nor has any weapon of

offence or robbed property been recovered from his possession or at his pointation. He submits that the alleged pistol and empty cartridges/shells were forwarded to the forensic laboratory with an unexplained delay and were received on 23.06.2026, while the prosecution has failed to satisfactorily establish their safe custody and chain of transmission. He further submits that the applicant was not arrested at the place of occurrence and that his brother had immediately approached the concerned higher police authorities through written applications, alleging that the applicant had been taken away by police from outside City Courts, Karachi, on 04.06.2026 and subsequently falsely implicated in the present case, which is supported by the accompanying courier receipts. He contends that the prosecution witnesses and mashirs are predominantly official witnesses, whereas no independent witness was associated with the investigation despite the alleged occurrence having taken place at a public place. Learned counsel further submits that the applicant is no longer required for any purpose of investigation, as he has already been remanded to judicial custody, and there is no likelihood of his absconding or tampering with the prosecution evidence. He maintains that the applicant is neither a previous convict nor a hardened, desperate or dangerous criminal and is entitled to the presumption of innocence. He argues that the learned 1st Additional District & Sessions Judge, South Karachi, while dismissing the applicant's bail application vide impugned order dated 25.07.2026, failed to properly appreciate the aforementioned material circumstances, including the delay in registration of the FIR, non-nomination of the applicant, non-identification by the material eyewitnesses, absence of a Test Identification Parade, unexplained delay in forensic examination, prior applications regarding his alleged apprehension, and lack of independent corroborative evidence. He, therefore, submits that the prosecution case squarely falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C., that the impugned order is contrary to the facts and circumstances of the case and has resulted in miscarriage of justice, and that the applicant is entitled to the concession of post-arrest bail.

4. Conversely, learned Assistant Prosecutor General, while opposing the grant of bail, submits that the applicant is involved in a heinous

offence and that the allegations against him require proper scrutiny at trial. She contends that the applicant's plea of false implication, non-identification by witnesses, and alleged delay in registration of the FIR are matters of evidence which cannot be conclusively determined at the bail stage. She further submits that the evidentiary value of the material collected during investigation, including the alleged disclosure of the applicant and forensic material, is to be assessed by the learned trial Court after recording evidence. She, therefore, opposes the grant of post-arrest bail and prays for dismissal of the bail application.

5. I have heard the learned counsel for the applicant as well as learned APG at considerable length and have carefully examined the material available on record.

6. It is an admitted position that the applicant was not nominated in the FIR, which was registered against unknown accused persons. Neither his name nor any description or identifying feature was disclosed by the complainant at the time of registration of the FIR. The complainant, being a police official, is not an eyewitness to the alleged occurrence. Thus, the subsequent involvement of the applicant requires cautious examination at the trial stage.

7. So far as the delay in registration of the FIR is concerned, the alleged occurrence took place on 27.05.2026, whereas the FIR was registered on 03.06.2026, after a delay of about seven days. Although the initial proceedings were undertaken by the police in connection with the incident, the delay in formally registering the FIR, particularly in the absence of any specific allegation against the applicant during the intervening period, is a circumstance which requires further inquiry

8. The statements of the material eyewitnesses, namely Muhammad Adnan and Muhammad Zohaib Siddiqui, recorded under Section 161 Cr.P.C. on 10.06.2026, are of considerable significance, as they reportedly stated that they could not identify the accused persons involved in the occurrence. Furthermore, no Test Identification Parade was conducted during the investigation, nor is there any material showing that the applicant was identified by the injured witness or any other person

acquainted with the occurrence. These circumstances prima facie create a question regarding the identity of the applicant as one of the alleged perpetrators.

9. The prosecution case, as presently available, appears to be substantially based upon an alleged disclosure/confessional statement made by the applicant before the police during custody. Such statement, in view of Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, cannot be treated as substantive evidence of guilt, except to the extent permitted by law. No confessional statement of the applicant under Section 164 Cr.P.C. has been recorded before a learned Judicial Magistrate. Consequently, the alleged disclosure, in the absence of independent corroborative material, does not appear sufficient at this stage to conclusively connect the applicant with the commission of the alleged offence.

10. The contention regarding the absence of CCTV footage, digital, forensic or other independent corroborative evidence also requires consideration. Furthermore, the alleged pistol and empty cartridges/shells were received by the forensic laboratory on 23.06.2026, and the prosecution has not satisfactorily explained the delay in their transmission or established, at this tentative stage, the integrity of their safe custody and chain of transmission. These aspects are relevant to the evidentiary value of the physical material and shall be examined by the learned trial Court during trial.

11. The applications allegedly submitted by the applicant's brother before the concerned higher police authorities, alongwith the courier receipts, wherein it was claimed that the applicant had been apprehended from outside City Courts, Karachi, on 04.06.2026 and subsequently falsely implicated in the present case, constitute material circumstances which cannot be brushed aside at the bail stage. The veracity of the said plea is, however, a matter to be determined after recording evidence.

12. The submission of learned counsel regarding the stance of the legal heirs of the deceased and the absence of any direct identification or incriminating statement against the applicant further adds to the

circumstances requiring consideration. However, such stance, by itself, is not determinative of the applicant's entitlement to bail in an offence of this nature.

13. In view of the cumulative effect of the aforementioned circumstances, particularly the unexplained delay in registration of the FIR, non-nomination of the applicant, absence of identification by the material eyewitnesses, non-conduct of Test Identification Parade, the nature of the alleged disclosure, absence of recovery and lack of independent corroborative evidence, I am of the tentative view that the case of the applicant squarely falls within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C.

14**.** Accordingly, the instant post-arrest bail application is allowed. The applicant Noor Wali son of Umer Gul is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- [Rupees Two Lac only] and P.R. bond in the like amount to the satisfaction of the learned trial Court. The observations made herein are tentative in nature and shall not prejudice either party at the time of trial.

JUDGE