

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.456 of 2025

Applicant : Sajjad Khan son of Missal Khan,
through Mr. Mahmood Ahmed Khan,
Advocate

Respondent : Gul Nawaz Khan, through Mr. Shujjat
Ali Khan, Advocate

The State
Through Ms. Rahat Ehsan, Addl. P.G,
Sindh, Sindh a/w SSP Investigation
Mr. Azhar Ali of District Keamari a/w
I.O of the case.

Date of hearing : 10.04.2025

Date of order : 10.04.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, the applicant/accused seek post-arrest bail in Crime No.294 of 2024 registered under Sections 324, 452, 34 PPC R/w 109, 202, 216, 302, 337-FIII at Police Station Jackson, after his bail plea has been declined by the learned IVth Additional Sessions Judge West, Karachi, vide order dated 03.02.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant has submitted that the name of the applicant/accused is not mentioned in the FIR. However, the Investigating Officer subsequently implicated the applicant in the alleged offence based solely on the statement of a co-accused. The only allegation attributed to the applicant is that, after the commission of the offence, the co-accused went to the applicant's residence and concealed a pistol there, following which the applicant was arrested. Learned counsel further referred to the charge sheet, wherein the Investigating Officer has stated that the

applicant/accused is a close relative of co-accused Atif Ali, son of Imtiaz Ali, who disclosed that, after committing the offence, they proceeded to the applicant's house and stayed there. In conclusion, learned counsel prayed for the grant of post-arrest bail to the applicant.

4. Conversely, the SSP Investigation, District Keamari, appeared in person. Upon being confronted with a hypothetical scenario, whether an individual from his native village, who arrives at his residence after committing an offence without informing him of such act, would render him culpable as an accused, the officer was unable to provide a satisfactory response. During the course of arguments, the SSP Keamari submitted that there exists a specific allegation against the applicant/accused, namely Sajjad Khan that he facilitated the principal accused in the commission of the offence, thereby attracting liability under Section 202 of the Pakistan Penal Code.

5. Learned counsel for the complainant vehemently opposed the plea for grant of bail, contending that it was upon the instigation and conspiracy of the applicant/accused that the principal accused committed the offence. He further submitted that, following the arrest of the applicant and pursuant to his pointation, the crime weapon was recovered. The recovered weapon was subsequently sent to the Forensic Science Laboratory (FSL) and the report received was positive. Learned Additional Prosecutor General, Sindh, also opposed the grant of bail to the applicant.

6. Heard and perused the record.

7. Upon perusal of the record, it is evident that the name of the applicant/accused is not mentioned in the FIR, nor has any specific role been attributed to him therein, albeit he is related to the co-accused. Furthermore, during the course of investigation, it transpired that subsequent to the commission of the offence, the co-accused proceeded to the residence of the applicant/accused and remained there.

Consequently, the applicant was implicated in the present case under Section 202 of the Pakistan Penal Code. **Section 202 PPC stipulates: “Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”**

8. I have examined the summary report (challan) submitted by the Investigating Officer, wherein, towards the conclusion of the report, it is stated that the co-accused disclosed that Sajjad Khan (the present applicant) is their relative. Additionally, accused Atif revealed that the applicant is his real uncle and that his father and brother, namely Asif, as well as his uncle Gul Zamin Khan alias Khan, son of Missal Khan, reside with him and that the applicant has been providing them assistance. It was on the basis of this statement made by co-accused Atif that the present applicant was subsequently arrested.

9. Learned counsel for the applicant/accused has submitted that the offence under Section 202 of the Pakistan Penal Code is bailable in nature, carrying a maximum punishment of six months as prescribed by law. In support of this contention, reliance has been placed on the case of **Qurban Ali v. The State and others (2017 SCMR 279)**, wherein the Honourable Supreme Court of Pakistan was pleased to grant bail to an accused who had not been assigned any overt act during the commission of the offence, save for the role of raising a 'lalkara'. It was observed that, under such circumstances, it fell upon the trial court to determine, after recording the respective evidence, whether the accused was vicariously liable for the acts committed by his co-accused. The case was held to be one of further inquiry. **Similarly, in the case of Mumtaz Hussain and 5 others v. The State (1996 SCMR 1125)**, bail was granted on the ground that, although the accused were allegedly armed

with deadly weapons such as a rifle, gun, and hatchet, they only inflicted simple blunt injuries using the wrong side of their weapons. It was held that the question as to whether the accused shared a common intention with the principal accused, who caused the fatal injury, required further inquiry.

10. It is further argued that the applicant/accused is presently in judicial custody, and his continued detention would serve no useful purpose, as the challan has already been submitted and he is no longer required for the purposes of investigation. In this regard, reliance is also placed upon an unreported judgment of the Honourable Supreme Court of Pakistan in the case of ***Jahzeb Khan v. The State through A.G. KPK and others, Criminal Petition No.594/2020***, wherein the Honourable Supreme Court was pleased to hold that:

“4..... Petitioner’s continuous detention is not likely to improve upon investigative process, already concluded, thus, he cannot be held behind the bars as a strategy for punishment. A case for petitioner’s release on bail stands made out.”

11. Learned counsel for the applicant/accused has made out a case for grant of post-arrest bail in view of sub-section (2) of section 497 Cr.P.C, resultantly the instant bail application is **allowed** and the applicant/accused Sajjad Khan is admitted to bail subject to his furnishing solvent surety in the sum of Rs.100,000/- and P.R. bond in the like amount to the satisfaction of learned Trial Court.

12. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE

Hyder/PA