

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No.S -278 of 2025

Applicant

Abdul Shakoor : through M/s Qurban Ali Malano &
son of Karim Bux Lakho Anwar Ali Lohar, Advocates.

The State

: through Shafi Muhammad Mahar,
Deputy Prosecutor General Sindh.

Complainant,
Mumtaz.

: through Mr. Alam Sher Bozdar,
Advocate.

Date of hearing. : 02.06.2025

Date of Order. : 02.06.2025

ORDER

Ali Haider 'Ada',J. Through this post-arrest bail application, the applicant/accused Abdul Shakoor son of Kareem Bux Lakho seeks release in Crime No. 79 of 2024, registered at Police Station Wasti Jeewan Shah, for offences punishable under Sections 302, 324, 148, 149, 109, 427, and 337-H(ii), PPC. Prior to this, the case was being tried by the learned Anti-Terrorism Court, Ghotki at Mirpur Mathelo. The applicant approached the said Court seeking post-arrest bail; however, his bail application was dismissed vide order dated 17-12-2024. The applicant subsequently challenged the said order before the learned Division Bench of this Court, but the bail application was dismissed as not pressed, on the ground that the learned Anti-Terrorism Court had allowed an application under Section 23 of the Anti-Terrorism Act, 1997 and accordingly, transferred the case to the ordinary Court having jurisdiction. Therefore, the applicant opted not to press the bail application at that stage. Thereafter, the applicant filed a fresh bail application before the learned Sessions Judge, Ghotki, who entrusted the same to

the learned Additional Sessions Judge, Ubauro and the said Court, after hearing the parties, dismissed the bail application vide order dated 25-03-2025.

2. As per the contents of the FIR, on 16.10.2024 at about 1500 hours, Complainant Mumtaz Shar lodged a report at Police Station Wasti Jeewan Shah, stating that on 14.10.2024, he was traveling along with Ali Muhammad Shar, Suhrab Shar, Muhammad Nawaz, and Sardar Shahryar Khan Shar (a former MPA from the year 2018) to meet members of the Shar community and local voters. The vehicle was being driven by Sardar Shahryar Khan Shar, with his brother Ali Muhammad seated beside him in the front, while the complainant along with Suhrab Shar and Muhammad Nawaz were seated in the back. When they reached near village Allah Bux Ghunio, on the Katcha Bhaya side, the twenty armed persons suddenly emerged from a sugarcane field and intercepted their vehicle. The complainant alleged that the accused included Attaullah alias Atoo Seelro, Panjan Seelro, Akber, Asghar Seelro, Rahim Bux Seelro, Shahnawaz Seelro, Khadim Seelro, Ibrahim, Hameed Seelro (armed with Kalashnikovs); Khalid Seelro, Shoukat Seelro, Abdul Sattar Seelro (armed with G-3 rifles); Ali Gohar and Siddique (armed with rifles); Asadullah Bhutto, Allah Wasayo, and Khambo (armed with repeaters); along with three unidentified persons carrying Kalashnikovs, who were said to be identifiable if seen again. It is alleged that all the accused, with the common object of spreading terror, opened indiscriminate fire directly at the vehicle. Accused Khalid Seelro allegedly fired upon Ali Muhammad Shar, resulting in his death. Asghar Ali Bhutto allegedly fired at Suhrab Shar, hitting his right arm, while Asadullah Bhutto allegedly fired with a repeater, striking Suhrab Shar on the head. Despite the attack, Sardar Shahryar Khan Shar managed to accelerate the vehicle and escape the scene, thereby saving the lives of the other companions. After the vehicle stopped at a safe

location, the complainant discovered that Ali Muhammad Shar had died on the spot, while Suhrab Shar had sustained serious injuries. The vehicle was found to be riddled with bullet holes from all sides. With the assistance of community members, the deceased and the injured were shifted to Taluka Hospital, Ubauro. The incident was thereafter formally reported to the police, wherein it was alleged that the offence was committed by the principal accused on the instigation of accused Ahmed Khan Seelro and Abdul Shakoor Lakho (present applicant). Subsequently, the FIR was registered on the basis of the said allegations.

3. Learned counsel for the applicant/accused contends that the applicant has been falsely implicated due to political rivalry and bears no nexus with the commission of the offence. He further submits that the only allegation against the applicant is in the nature of abetment or conspiracy, which is not supported by any tangible or independent material collected during the course of investigation. It is argued that mere allegations of conspiracy or abetment, without credible corroboration, are not sufficient to hold an accused responsible under Section 109, PPC, particularly when the essential ingredients of abetment are lacking in the present case. Learned counsel further submits that no incriminating evidence, either direct or circumstantial, has been brought on record by the Investigating Officer to substantiate the role of applicant in the incident, as the applicant was let off by the Investigation Officer. He further contends that the investigation has been completed; challan has been submitted and the continued incarceration of the applicant would serve no useful purpose. It is, therefore, prayed that the applicant be admitted to post-arrest bail.

4. Conversely, Mr. Alam Sher Bozdar, Advocate, appearing on behalf of the complainant, has opposed the grant of bail to the applicant. He submits that the

role of the applicant/accused is specifically mentioned in the FIR, wherein he has been nominated as an abettor/conspirator in the commission of the offence. He further contends that the bail of applicant have twice been dismissed on merits by the learned Courts below. Finally, the learned Counsel prays for the dismissal of the present bail application.

5. On the other hand, the learned Deputy Prosecutor General has supported the order of dismissal passed by the learned trial Court and opposed the grant of bail to the applicant. He submits that there appears to be no malafide on the part of the complainant, who is alleged to have hatched a conspiracy in furtherance of the offence. Learned DPG argues that given the seriousness of the allegations, the applicant is not entitled to the concession of bail at this stage. However, he could not dispute the fact that the applicant was let-off by the police during investigation and his name has been placed in Column No. 2 of the challan submitted before the competent Court.

6. Heard the learned counsel for the parties; and perused the material available on record with their able assistance.

7. Upon perusal of the record, it transpires that the name of the present applicant/accused Abdul Shakoor Lakho finds mention in the FIR not as a direct participant at the scene of occurrence, but merely on the allegation that he, along with co-accused Ahmed Hussain Seelro, had instigated the principal offenders to commit the offence. The FIR itself does not allege that the present applicant was physically present at the place of occurrence. The allegation of abetment or conspiracy through instigation, being of a derivative and indirect nature, demands strong and cogent corroborative evidence to establish that the offence was in fact committed as a consequence of such instigation. The prosecution has

not, at this stage, disclosed the source of information or furnished any independent material to substantiate that the principal offenders had acted specifically on the advice, direction or incitement of the present applicant. In the absence of prima facie proof, the possibility of the applicant being falsely implicated cannot be completely ruled out, particularly when the nature of the allegation is not supported by any direct or circumstantial evidence collected during investigation. In this regard, reliance is placed upon the judgment of the Honourable Apex Court in the case of *Shahzada Qaiser Arfat alias Qaiser v. The State and another* (PLD 2021 SC 708). In further support, the case of *Abdul Khalique v. The State* (2023 PCr.LJ Note 21), wherein the learned Division Bench of this Court was pleased to grant bail to the accused despite the allegation of instigation to other accused commit murder. Similarly, in another case titled *Pervaiz Ahmed v. Sardar Khan and others* (2022 PCr.LJ Note 15), the learned Division Bench has held that: “12. with regard to Respondent No.1/ accused Sardar Khan Chandio it has come on record that allegation against him is that of abetment / conspiracy but ingredients to establish such allegation would require proof (evidence), therefore mere allegation of connection would make out the case of the respondent Sardar Khan Chandio within meaning of further probe, hence no useful purpose would be served by committing him to custody for his ultimate release which he (accused) would claim matter of right...”

8. Further important aspect which requires consideration is that co-accused Ahmed Hussain Seelro and the present applicant Abdul Shakoor Lakho were declared innocent by the Investigation agency and accordingly let off from the charge, their names being placed in Column No. 2 of the final challan report. It is well settled that the opinion of the investigation agency, although not binding on the Court, so far, at the bail stage, the prima facie

material which supports the version of the Investigation Officer cannot be ignored, especially where no direct evidence is available to connect the accused with the commission of crime. In such circumstances, the case squarely falls within the ambit of further enquiry under Section 497(2) of the Criminal Procedure Code. The Hon'ble Supreme Court of Pakistan in various recent pronouncements has reaffirmed this principle. Reliance is placed on the cases of *Mujahid Hussain and another v. The State* (2024 SCMR 800), *Muhammad Imran v. The State and another* (2023 SCMR 1152), *Abdul Rehman v. The State and others* (2023 SCMR 2081), *Sharif Khan v. The State and another* (2021 SCMR 87), *Raza Muhammad and another v. The State* (2024 YLR 359) and *Ghaffar and another v. The State* (2021 YLR Note 66).

9. Furthermore, the principle of rule of consistency is directly attracted in the present case. The record reflects that co-accused Ahmed Hussain Seelro, who was attributed a similar role of alleged instigation as that of the present applicant, has already been granted pre-arrest bail by the learned Anti-Terrorism Court, Ghotki. It is an established principle of law that when a co-accused stands on an identical or substantially similar footing as the applicant, then the rule of consistency becomes applicable and the benefit extended to one accused cannot be withheld from the other, in the absence of any distinguishing feature. The Honourable Apex Court, reaffirming this doctrine in the latest unreported judgment titled *Mudassar Khursheed vs. The State and another, Criminal Petition for Leave to Appeal No. 255-L of 2025, decided on 08.04.2025*.

10. In addition, it is an admitted position on record that one Mst. Hoori Bibi, the daughter of the deceased Muhammad Umer, has also lodged an FIR pertaining to the same incident; however, her version is entirely different from the one narrated by the present complainant. Both FIR relate to the same date,

time, and place of occurrence, yet they involve two distinct sets of nominated accused. Such a contradictory state of affairs reflects that there are two divergent versions of the same incident on record. This contradiction goes to the root of the prosecution case and gives rise to a doubt regarding the correct account of events.

11. For the reasons discussed herein above, I am of the considered view that the applicant/accused has successfully made out a case for the grant of post-arrest bail within the contemplation of Section 497(2), Cr.P.C, which calls for further enquiry into his guilt. Accordingly, the instant bail application is allowed. The applicant/accused, namely Abdul Shakoor Lakho, is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a Personal Bond in the like amount to the satisfaction of the learned trial Court. It is, however, clarified that the observations made herein above are purely tentative in nature and shall not prejudice the case.

12. The bail application stands disposed of in the above terms.

J U D G E

Ihsan/PS.