

**ORDER SHEET**

**THE HIGH COURT OF SINDH AT KARACHI**

**Crl. Bail Application No.96 of 2025**

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Date: Order with signature(s) of the Judge(s)

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For hearing of bail application.

**20th March 2025**

M/s. Mazhar Iqbal and Makhdoom Ahmed  
Khan  
Advocate for Applicant/accused.

Mr. Qamruddin Nohri, DPG a/w SIP Naseem  
Khan PS Shah Latief Town Karachi

**Jan Ali Junejo, J.**— Through this Criminal Bail Application, the applicants/accused Muhammad Sharif, Ghous Bux, and Dildar @ Dilo seek post-arrest bail in Crime No. 1251/2024, registered under Sections 392, 397, 353, 324, 186, and 34 of the Pakistan Penal Code (PPC) at Police Station Shah Latief Town, Malir, Karachi. The applicants were initially denied bail by the learned Additional Sessions Judge-VIII, Malir, Karachi, vide order dated 12-12-2024 in Criminal Bail Application No. 5860/2024, which is now under challenge before this Court.

2. The case of the prosecution, as narrated in the FIR lodged by the complainant, Sajid Afridi, is that on 01-10-2024 at around 12:45 a.m., the applicants, along with their absconding co-accused, while armed with weapons, intercepted the complainant near Double Road, Sector 21-A, Gup Shup Hotel, Shah Latief Town, Malir, Karachi, and

forcibly snatched his mobile phone and wallet containing Rs. 5000/-. The accused then attempted to flee the scene but were chased by a police patrol team led by SIP Allah Dino, resulting in an exchange of gunfire. Two of the accused, Muhammad Sharif and Ghous Bux, sustained injuries and were apprehended at the spot, while the other two managed to escape. Upon conducting a search, the police recovered robbed property and unlicensed weapons from the arrested individuals.

3. The learned counsel for the applicants argued that the applicants have been falsely implicated in the present case due to malafide intentions of the complainant and the police. He contended that the FIR is fabricated, lacks independent witnesses, and contains inconsistencies regarding the alleged robbery and subsequent police encounter. He further argued that the applicants were not present at the crime scene and have been falsely shown as perpetrators. Additionally, the delay in lodging the FIR, the alleged recovery of weapons without compliance with Section 103 Cr.P.C., and the absence of injuries to police officers despite an alleged exchange of fire cast serious doubts on the prosecution's version. The counsel emphasized that no independent evidence supports the allegations, and mere recovery at the instance of police officers cannot be considered conclusive proof. He further asserted that the case does not fall within the prohibitory clause of Section 497(1) Cr.P.C., as there are sufficient grounds for further inquiry, and keeping the applicants behind bars would serve no useful purpose. Lastly, he

submitted that the applicants are permanent residents of Karachi, have no prior criminal record, and there is no apprehension of absconding or tampering with evidence. Therefore, he prayed for the grant of post-arrest bail to the applicants.

4. Conversely, the learned APG vehemently opposed the bail application, arguing that sufficient incriminating material is available on record to connect the applicants with the commission of the offense. He contended that the applicants were caught red-handed, and the recovered robbed property and illegal weapons directly link them to the crime. He emphasized that eyewitness statements, including that of the complainant, fully corroborate the prosecution's version and that the applicants were arrested in an injured condition following an armed confrontation with the police, leaving no room for false implication. He further argued that street crime has reached an alarming level in Karachi, and granting bail in such heinous offenses would set a dangerous precedent and undermine the rule of law. The APG submitted that the applicants' acts of armed dacoity, resisting arrest, and attempting to kill police officers clearly fall within the prohibitory clause of Section 497(1) Cr.P.C., thereby disqualifying them from bail. He added that the applicants have failed to demonstrate any exceptional circumstances justifying their release, and their continued detention is necessary to prevent them from influencing witnesses or engaging in further criminal activity. Therefore, he prayed for the dismissal of the bail application.

5. After careful consideration of the arguments and perusal of the record, the Court finds as follows: The record reflects that the applicants were apprehended at the scene of the crime in an injured condition, with stolen property and illegal firearms in their possession. This establishes a strong prima facie case against them. The complainant, an independent victim of street crime, has consistently narrated the entire incident. His version is supported by police witnesses, who were engaged in an exchange of fire with the accused. Furthermore, the FIR was lodged promptly, leaving little room for fabrication. The accused have failed to establish any mala fide intention on the part of the complainant or law enforcement agencies, which could indicate false implication. The offense involves armed robbery, attempted murder of police officials, and possession of unlicensed firearms, which are serious in nature. In light of the increasing incidents of street crime, granting bail in such cases would set a dangerous precedent. The Court must act as a deterrent to such crimes, keeping in mind the larger public interest. The learned trial Court has rightly relied on precedents where bail was denied in similar cases. At this stage, only a tentative assessment is required, and the presence of sufficient material connecting the applicants to the offense precludes their release on bail. The applicants have failed to demonstrate any exceptional grounds for the grant of bail, as required in serious offenses under the prohibitory clause of Section 497(1) Cr.P.C. However, the Hon'ble Supreme Court of Pakistan in *Shameel Ahmed v. The State (2009 SCMR 174)* has

categorically held that bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in *Afzaal Ahmed v. The State (2003 SCMR 573)*, it was held that the mere fact that an offense does not fall within the prohibitory clause does not automatically render it bailable, and the Court retains discretion in granting bail based on established legal principles.

6. For the reasons outlined above, the bail application filed on behalf of the Applicants being bereft of substantive merits is hereby dismissed. It is expressly clarified that the observations and conclusions rendered in this order are strictly limited to the disposal of the present bail application and do not constitute an opinion on the merits of the case. These remarks shall not be interpreted as prejudicing the rights, claims, or defenses of either party—prosecution or defense—during the trial proceedings. The trial Court shall adjudicate the matter independently, uninfluenced by any findings articulated herein, and solely based on evidence adduced and legal principles applicable at the appropriate stage. These are the reasons for short order.

**JUDGE**