

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.D- 40 of 2025

**Present:-** Amjad Ali Bohio &  
Ali Haider 'Ada', JJ

Applicants: Muhammad Saleem @ Saleem and  
others through Mr. Ghulam Mujtaba  
Soomro, Advocate

Respondent: State through Mr. Aftab Ahmed Shar,  
APG

Date of hearing: **11.06.2025**

Dated of order: **11.06.2025**

## **ORDER**

**Amjad Ali Bohio, J:** The applicants/accused, namely Muhammad Saleem @ Saleem, son of Nabi Bux; Ali Nawaz, son of Nabi Bux @ Kaloo; Rafique, son of Muhammad Qasim; Sabz Ali, son of Ali Muhammad; Abdul Razzaque @ Abdul Rasool, son of Natho Khan; Gul Muhammad, son of Muhammad Chuttal; Bajhi, son of Muhammad Chuttal; and Ali Hassan, son of Muhammad Yousif, all by caste Khaskheli and residents of Village Lal Bux Khaskheli, Taluka K.N. Shah, District Dadu, seek confirmation of interim pre-arrest bail in respect of Crime No. 34/2025, registered at Police Station Kakar under Sections 341, 382, 353, 148, 149, and 337-H(ii) PPC, read with Sections 6/7 of the Anti-Terrorism Act, 1997. Their earlier bail application was dismissed by the learned Judge, Anti-Terrorism Court, Naushahro Feroze, vide order dated 06.05.2025. Hence, the present application is filed before this Court.

2. As per the FIR lodged on 29.04.2025 by Inspector Sain Bux Chandio, SHO of Police Station Kakar, the alleged incident took place on 27.04.2025 at about 2145 hours. It was reported that while the complainant and his team were on routine patrol duty in a government vehicle along the Indus Highway near Village Lal Bux Khaskheli, they observed a group of approximately 20/25 individuals, including the present applicants, allegedly armed with pistols, iron rods, sticks, and lathis. The group was reportedly blocking the road using thorny bushes and burning tyres.

The complainant stated that when the police attempted to persuade the group to clear the road, one of the accused, namely Abdul Razzaque declared that they were protesting against the alleged snatching of a motorcycle from their village and would not disperse until the vehicle was recovered. Upon contacting police control, the complainant was informed that the said motorcycle had already been recovered by Phulji Police Station during a police encounter and that FIR No. 12/2025 had been registered in that regard. Subsequently, police from Phulji Police Station arrived at the scene with the recovered motorcycle to present it to the protestors. However, the accused persons, including the present applicants, allegedly snatched the motorcycle by force and resorted to aerial firing to create fear and panic. Owing to the large crowd, the police team was unable to arrest anyone at the scene. The accused reportedly used children as shields and escaped towards nearby villages. After clearing the road and performing emergency duties related to canal unrest, the complainant returned to the police station and lodged the FIR on 29.04.2025, nominating the applicants as among those responsible for committing offences under various provisions of the PPC and the Anti-Terrorism Act.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to the broader law and order situation arising from the Six Canals protest. He argued that the applicants had no connection with the earlier motorcycle snatching incident, nor was there any credible evidence linking them to the acts of road blockage or aerial firing. He emphasized that the FIR was registered after an unexplained delay of two days, which casts serious doubt on the credibility of the allegations. He further submitted that the allegations are vague and that no specific role has been attributed to any individual applicant. Moreover, all the witnesses cited are police officials, raising the possibility of false implication. He also pointed out that the offences under Sections 341, 353, and 337-H(ii) PPC are bailable, and that Sections 6/7 of the Anti-Terrorism Act, 1997, do not apply in the present case. He therefore prayed for confirmation of interim pre-arrest bail.

4. Conversely, the learned Additional Prosecutor General opposed the application, arguing that the applicants were specifically nominated in the FIR with allegations of blocking a public highway, resisting law enforcement officials, and instilling fear and panic through aerial firing, acts that attract the provisions of the Anti-Terrorism Act, 1997. He contended that the conduct of the applicants was sufficient to spread terror among the general public, thus bringing the case within the ambit of Section 6 of the ATA.

5. I have heard learned counsel for the applicants, the learned Additional Prosecutor General, and have carefully perused the available record.

6. A tentative assessment of the available material suggests that although the applicants are named in the FIR, the complainant failed to explain how the accused were identified at the time of lodging the report, as no basis or reference for their identification was provided. Holding demonstrations and exercising the right to peaceful assembly are essential features of a democratic society and are guaranteed as fundamental rights under the Constitution of the Islamic Republic of Pakistan, 1973. These inalienable rights cannot be curtailed or treated as offences merely on account of public gathering, nor can such exercise of rights be labeled as an unlawful assembly without lawful justification. The mere act of exercising constitutional rights by citizens cannot be used as a valid ground to initiate criminal proceedings against them.

7. As alleged, the applicants, being part of an unlawful assembly, had blocked the road to protest the snatching of a motorcycle belonging to their fellow villagers. Although there are allegations of aerial firing by the accused at the time of the incident, no empty shells were recovered from the place of occurrence during investigation. This aspect renders the allegation of firing doubtful and brings the matter within the ambit of further inquiry. Reliance is placed on the case reported as *The State vs. Muhsin Jamal* (2024 P.Cr.L.J 1492). Another important aspect of the present FIR is the principle of freedom of expression, enshrined under Article 19 of the Constitution of the Islamic Republic of Pakistan, 1973. While this Article guarantees freedom of speech and expression, it also permits reasonable

restrictions in the interest of public order, morality, or the rights of others. The law mandates that a fair balance be maintained between an individual's right to expression and the collective rights of society. In this context, reliance is placed on the case of Pakistan Broadcasters Association and others vs. Pakistan Electronic Media Regulatory Authority (PEMRA) and others (PLD 2016 SC 692), wherein it was held:

*"In examining the reasonableness of any restriction on the right to freedom of expression it should essentially be kept in mind as to whether in purporting to exercise freedom of expression one was infringing upon the right of freedom of expression of others, and also violating their right to live a nuisance free life, and as to whether one is right to time and space was being violated. No one could be forced to listen or watch that he may not like to, and one could not be invaded with unsolicited interruptions while eagerly watching or listening to something of his interest. State was not supposed to remain oblivious of such violation/invasions and could not detract from its obligation, to regulate the right to speech when it came in conflict with the right of the viewers or listeners. Constitution, though secured the right of free speech, but had not left the same unchecked and had provided for reasonable restriction as postulated under Article 19 of the Constitution. State had a compelling interest in regulating the right to speech when it came in conflict with the rights of other individuals, or other societal interest.*

*In a civilized and democratic society, restrictions and duties co-existed in order to protect and preserve the right to speech, it was inevitable to maintain equilibrium by placing reasonable restriction on freedom of expression in the maintenance of "public order". Unless the restriction struck a proper balance between the freedom of expression guaranteed by Article 19 of the Constitution and the social control permitted thereby, it must be held to lack the attributes of reasonableness. Government should therefore strike a just and reasonable balance between the need for ensuring the people's right of freedom of speech and expression on the one hand and the need to impose social control on the business of publication and broadcasting."*

8. There is no recovery effected from the applicants, nor has any independent witness been cited in support of the prosecution's version. The delay of two days in lodging the FIR has not been plausibly explained, thereby diminishing the reliability of the prosecution's case at this stage. It further appears that the incident was linked to a broader law and order situation arising out of regional protests concerning canal construction. This lends weight to the defense's assertion that the applicants may have been falsely implicated either on account of their caste affiliation or due to mistaken identity during the crowd control operation.

9. Moreover, it remains debatable whether the essential ingredients required to attract Sections 6 and 7 of the Anti-Terrorism Act, 1997 are satisfied in the present case. In the given circumstances, the possibility of further inquiry within the meaning of Section 497(2) Cr.P.C. cannot be ruled out. The general nature of the allegations, absence of independent corroboration, and unexplained delay in the registration of the FIR all render the prosecution's case doubtful at this stage. Furthermore, there is no material on record to suggest that the applicants are a flight risk or are likely to misuse the concession of bail.

10. In view of the foregoing and applying the principle of tentative assessment, I am of the considered view that the applicants have made out a case for confirmation of pre-arrest bail. Accordingly, the interim pre-arrest bail earlier granted to the applicants is hereby confirmed on the same terms and conditions.

11. Needless to state, the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial stage. The instant Criminal Bail Application No. S-40 of 2025 stands disposed of in the above terms.

12. These are the reasons for my short order dated 11.06.2025.

JUDGE

JUDGE