

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.S- 338 of 2025

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Applicant:	Abdul Qadeer through Mr. Ghulam Mujtaba Jakhar, Advocate
Respondent:	State through Mr. Aftab Ahmed Shar, APG
Complainant:	Sudheer Ahmed through Mr. Aijaz Ali Bhatti, Advocate
Date of hearing:	03.06.2025
Dated of order:	03.06.2025

ORDER

Amjad Ali Bohio, J. – Applicant / accused Abdul Qadeer son of Bakir Mangi seeks post-arrest bail in Crime No.315/2024, registered at P.S. Babarloi, District Khairpur, for an offence under Section 395 PPC, and in the connected/offshoot case being Crime No.34/2025 of the same Police Station under Section 24 of the Sindh Arms Act, 2013. Both bail applications were earlier declined by the learned Additional Sessions Judge-III, Khairpur vide order dated 11.04.2025. Since both applications arise out of the same occurrence and are connected in facts and law, they are being decided through this common order.

2. The facts of prosecution case as stated in the F.I.R. bearing Crime No.315/2024 are that, on 07.12.2024, complainant Sudheer Ahmed S/o Muhammad Pathan lodged the F.I.R., stating therein that the incident occurred on 16.06.2024 at about 08:30 p.m. at his biscuit factory located at Garhi Rangal Shah. He alleged that he, along with Irshad S/o Sobho Khan and Allah Dino S/o Ghulam Nabi Mangi, was present at the bakery when five persons entered the premises. Out of them, three accused persons were identified by name as (1) Siraj S/o Saifal, (2) Hussain Bux S/o Rustam, and (3) Ajab Gul S/o Nazir, by caste Shaikh, allegedly armed with K.Ks and pistols, while two other accused remained unidentified,

allegedly armed with pistols. The culprits robbed Rs.12,30,000/- and a mobile phone from the complainant at gunpoint. The complainant claimed they remained silent due to fear of weapons.

3. As per F.I.R. No.34/2025 (u/s 24 of Sindh Arms Act, 2013), during the investigation of the main case i.e. Crime No.315/2024 registered at P.S. Babarloi under Section 395 PPC, accused/Applicant Abdul Qadeer S/o Bakir Mangi was allegedly found in possession of a 30-bore TT pistol, which was stated to have been recovered from him in the presence of mashirs Allah Dino S/o Ghulam Nabi Mangi and Karim Bux S/o Gul Muhammad Mangi. Consequently, the complainant/Inspector Sobdar Ali lodged the instant FIR on behalf of the State as an offshoot of the main case.

4. Learned counsel for the applicant/accused contended that the applicant is innocent and has been falsely implicated due to prior business disputes with the complainant. He contended that the applicant/accused is not nominated in the FIR, and there is inordinate and unexplained delay of six months in lodging the FIR. The witness who later implicated the applicant did not disclose any credible source of information which could connect the applicant to the commission of the offence. The case, as argued, is concocted and filed with mala fide intention, particularly after the applicant's earlier illegal detention and CrI. Misc. Application u/s 491 Cr.P.C filed by his brother. He contended that no recovery was made from the applicant's possession and the alleged weapon was allegedly foisted to strengthen the main case. He lastly contended that the case of applicant/accused requires further inquiry, therefore, the instant applications may be allowed.

5. Conversely, the learned Additional Prosecutor General duly assisted by learned counsel for the complainant of main case, opposed the bail applications and contended that the applicant was rightly

implicated based on the subsequent information provided by a witness who identified him as one of the two unknown culprits. He argued that the recovery of the weapon further connects the applicant to the offence and that, considering the seriousness of the offence under Section 395 PPC, bail may be declined.

6. I have heard learned counsel for the applicant/accused, learned Additional Prosecutor General duly assisted by learned counsel for the complainant and have gone through the material available on record.

7. Admittedly, the applicant is not nominated in the FIR dated 07.12.2024, which was lodged with an inordinate and unexplained delay of nearly six months from the date of the incident, i.e., 16.06.2024. The complainant also failed to provide any description or distinguishing features of the two unknown culprits at the time of registration of the FIR. Subsequently, the present applicant was implicated on the basis of a supplementary statement of a witness, Irshad Mangi, who claimed to have identified the applicant as one of the unknown culprits allegedly present at the time of the offence. However, the said witness failed to disclose any source or basis of the information through which he came to know about the applicant's involvement. This unexplained delay and without any direct evidence or credible source of identification cast serious doubt on the prosecution's version, thus, *mala fide* on the part of prosecution could not be ruled out. Therefore, implication of the applicant in both the main and offshoot cases appears to be highly questionable and the case against the applicant requires further inquiry as contemplated under Section 497(2) Cr.P.C.

8. In view of the above, the applicant/accused has successfully made out a good prima facie case for his admission to post-arrest bail in both the crimes. Resultantly, the bail applications are allowed and the applicant Abdul Qadeer son of Bakir Mangi is admitted to post-arrest bail in Crime

No.315/2024 registered at P.S. Babarloi under Section 395 PPC and in Crime No.34/2025 registered at P.S. Babarloi under Section 24 of the Sindh Arms Act, 2013, subject to furnishing his solvent surety in the sum of Rs.30,000/- (Rupees thirty thousand) in each crime and P.R. bond in the like amount to the satisfaction of the trial Court.

9. Needless to mention that the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the time of trial.

Office to place a signed copy of this order in the captioned connected matter.

JUDGE

Naveed Ali