

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.S- 505 of 2025

Applicant: Adaal alias Adal through
Mr. Abdul Qadeer Khoso, Advocate

Respondent: State through Mr. Aftab Ahmed Shar,
APG

Date of hearing: **23.06.2025**

Dated of order: **23.06.2025**

ORDER

Amjad Ali Bohio, J: After dismissal of the post-arrest bail application of the applicant/accused (hereinafter referred to as ***“the applicant”***) vide order dated 20.05.2025, passed by the learned Additional Sessions Judge-IV, (H), Sukkur, the applicant has filed the instant bail application seeking post-arrest bail in Crime No.02 of 2023, registered at Police Station Tamachani, District Sukkur, for offences punishable under Sections 324, 353, 399, 402, 148, and 149 of the Pakistan Penal Code.

2. It is alleged that a police party, headed by Head Constable Ghulam Mustafa, received spy information during patrol duty regarding the presence of armed suspects near Pir Kako area. Acting upon the said information, the police proceeded to the indicated location, where they allegedly encountered 14/15 armed culprits, including the applicant, who were purportedly preparing to commit an offence. Upon being challenged, the suspects allegedly opened straight fire upon the police party with intent to commit their murder and deter them from performing official duty. The police retaliated, and the encounter reportedly lasted for approximately 5 to 6 minutes. No member of the police party sustained any injuries, and no official vehicle was damaged during the incident. All accused reportedly escaped by firing in the air. The name of the present applicant/accused, Adaal alias Adal, son of Irshad, was mentioned among the alleged assailants. Upon return to the police station, the aforementioned FIR was registered.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated due to mala fide intention and ulterior motives. He argued that the FIR does not assign any specific role to the applicant, and no incriminating material has been recovered from him. He further submitted that the applicant had been on pre-arrest bail,

which was confirmed earlier but got canceled only due to his non-appearance caused by his subsequent arrest in another false case (Crime No.06/2025 of PS SITE Area Sukkur). The learned counsel emphasized that the applicant remained cooperative during investigation, and now, with the submission of the final challan, he is no longer required for investigative purposes. It was further argued that co-accused Saddam alias Bablo and others have already been granted bail by learned Additional Sessions Judge-IV/(Hudood), Sukkur, hence the case of the present applicant stands on similar footing. Learned counsel also highlighted that despite the alleged exchange of fire lasting several minutes, not a single police official sustained injury, nor was any official vehicle damaged. Additionally, no independent witness from the vicinity, a populated area with houses and shops, was associated in violation of Section 103, Cr.P.C., thereby affecting the impartiality of the investigation.

4. Conversely, learned Deputy Prosecutor General opposed the bail application on the grounds that the applicant was named in the FIR and alleged to be armed at the scene of the offence, thus creating reasonable grounds for believing in his involvement in the commission of a cognizable offence.

5. I have considered the arguments advanced by the learned counsel for the applicant and the learned Assistant Prosecutor General and have examined the available material on record.

6. On a tentative assessment, certain aspects of the case merit closer scrutiny under the scope of further inquiry as contemplated under Section 497(2), Cr.P.C. First, the alleged encounter involving a considerable number of accused and lasting several minutes raises serious questions due to the absence of any injuries to police personnel or damage to public property. Secondly, the FIR fails to assign any specific role to the present applicant, which renders his alleged involvement ambiguous at this stage. These aspects, when considered cumulatively, bring the case of the applicant within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C. Reliance is placed on the principles enunciated by the Hon'ble Supreme Court in Syed Amanullah Shah v. The State (PLD 1996 SC 241), wherein the Hon'ble Apex Court observed as under:

“To deprive a person of his freedom is most serious. It is judiciously recognized that unfortunately there is a tendency to involve the innocents with a guilty. Once an innocent is put under arrest, then he has to remain in jail for considerable time. Normally it takes two years to conclude

the trial in a murder case. Ultimate conviction and incarceration of a guilty person can repair the wrong caused by the mistaken relief of interim bail granted to him but damage to an innocent person caused by arresting him, though ultimately acquitted, would be always beyond repair. So whenever reasonable doubt arises with regard to the participation of an accused person in the crime or about the truth/probability of the prosecution case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail than in the jail, during the trial. Freedom of an individual is a precious right. Personal liberty granted by a Court of competent jurisdiction should not be snatched away from accused unless it becomes necessary to deprive him of his liberty under the law. Where story of prosecution does not appear to be probable, bail may be granted so that further inquiry may be made into guilt of the accused.”

7. Further, the incident is allegedly shown to have taken place in populated area i.e near Pir Kako, the police party failed to associate any private individuals to witness the anticipated recovery of weapons. Reliance in this regard is placed upon the cases of Dost Muhammad alias Dooso v. The State (2021 MLD 772) and Muhammad Ramzan alias Chotu v. The State (2020 YLR 2582)

8. Furthermore, the co-accused, namely Saddam alias Bablo and others have already been granted bail by learned Additional Sessions Judge-IV/(Hudood), Sukkur. It is important to highlight that in criminal jurisprudence, the principle of consistency is applicable, where an accused person is similarly placed and assigned an equivalent role as a co-accused who has been extended bail, such accused is also eligible for the same relief. In the present matter, the co-accused Saddam and others, who are alleged to have played a comparable role, were granted bail by the Court of learned Additional Sessions Judge-IV/(Hudood), Sukkur. Therefore, the present applicant/accused also deserves for similar treatment under the doctrine of consistency. Reliance in this regard is placed upon case of Pir Bakhsh v. The State and others (2010 MLD 220), wherein it was observed:

“6. Rule of consistency is always taken into consideration by the Courts since long because a person cannot be denied for the grant of bail whose case is at par of an accused who had already been released on bail.

The Courts have to give equal treatment to the accused persons having one and the same role in the same case. Reliance upon the cases of Muhammad Fazal alias Bodi v. The State (1979 SCMR 9), Khadim Hussain v. The State (1983 SCMR 124), Manzoor Ahmad and others v. The

State (PLJ 1999 Cr.C. (Lahore) 570) and Muhammad Daud and another v. The State and another (2008 SCMR 173). As the case of the petitioner is at par with that of his co-accused Zulifqar and Ghulam Rasool who had already been allowed bail by the learned Additional Sessions Judge, therefore, following the rule of consistency, the petitioner is also entitled to the bail.”

9. The applicant is not shown to be a hardened criminal or having a previous conviction. With the investigation concluded and the final challan submitted, he is no longer required for further interrogation. There is also no substantial material on record to suggest that he would tamper with prosecution evidence or abscond if released on bail.

10. In view of the foregoing, the instant bail application is allowed. The applicant, Adaal alias Adal son of Irshad by caste Khoso, is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- and a personal bond in the like amount to the satisfaction of the trial Court.

11. Needless to mention, the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial. The instant Criminal Bail Application No. S-505 of 2025 is disposed of accordingly.

12. These are the reasons for the short order dated 23.06.2025.

JUDGE