

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Criminal Bail Application No.S- 319 of 2025

Criminal Bail Application No.S- 318 of 2025

DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

- 1.For orders on office objection as flag A.
- 2.For hearing of main case.

07.7.2025.

Mr. Suhendar Kumar, advocate for the applicant in both matters.

Mr. Nazir Ahmed Bangwar, D.P.G for the State.

O R D E R

KHALID HUSSAIN SHAHANI-J.:- Through this common order, the applicant, Hubdar Ali, seeks post-arrest bail in Crime No.121 of 2025, registered under Sections 401, 324, 353, and 34, PPC, and in Crime No.122 of 2025, registered under Section 24 of the Sindh Arms Act, 2013, both at Police Station Kamber City. His earlier bail pleas were declined by the learned Sessions Judge, Kamber Shahadkot, vide orders dated 06.05.2025 and 18.04.2025, respectively.

2. As per the prosecution's version, on 02.04.2025, a police party headed by ASI Suhnal, acting on prior spy information regarding the presence of the applicant and his associates, allegedly involved in Crime Nos. 123 and 119 of 2025, proceeded to Sobdar Laro, Kamber Road. Upon arrival, they allegedly observed three armed individuals, including the present applicant, who is said to have opened fire upon the police party. The police retaliated, and after the exchange of fire, the applicant was found injured with a 30-bore pistol lying nearby. The remaining co-accused reportedly managed to escape. Memo of arrest and recovery was prepared at the spot, and the FIR was registered accordingly. Subsequently, a separate case under the Sindh Arms Act was also lodged.

3. Learned counsel for the applicant contended that the entire prosecution story is managed, fabricated, and suffers from serious contradictions. It is submitted that no police official sustained any injury, nor was any official vehicle hit during the alleged encounter. The recovery is alleged to be planted, and the encounter appears to be stage-managed, purportedly orchestrated by police to show efficiency and valor to superiors. It is further argued that the investigation has been completed, challan submitted, and the applicant is no longer required for custodial interrogation.

4. Conversely, the learned Deputy Prosecutor General opposed the bail application on the ground that the applicant was apprehended red-handed with an unlicensed weapon. However reluctantly ceded that ocular account was belied by medical evidence.

5. Admittedly, no injury was received by any member of the police party, nor was any police vehicle struck by a bullet, despite allegations of a direct armed encounter. Notably, the FIR does not reflect the presence or joining of any private, independent witness despite the fact that prior spy information was available. This omission constitutes a clear violation of Section 103, Cr.P.C. Additionally, the FIR is silent as to whether the applicant uttered any words or made any exclamation upon sustaining a firearm injury, which would reasonably be expected if the encounter was genuine and occurred at close range, as alleged.

6. A cursory examination of the medico-legal certificate reveals that the injuries sustained by the applicant include: (i) an incised wound measuring 2 cm × 0.75 cm, skin-deep, on the lower back of the right leg, and (ii) a linear incised (zigzag) wound measuring 4 cm × 0.25 cm, skin-deep, parallel to the first injury. The medical officer has opined that the injuries were inflicted by a sharp cutting weapon and self-infliction cannot be ruled out. This medical account prima facie contradicts the narrative of a firearm injury resulting

from police firing and raises serious doubts regarding the veracity of the prosecution's version.

7. In light of the above, the matter requires deeper scrutiny and determination at the stage of trial. The possibility of a fake encounter cannot be ruled out at this stage. The alleged recovery of weapon under suspicious circumstances and in the absence of independent attestation also becomes questionable. All prosecution witnesses are police officials, and thus, there exists no apparent risk of tampering with the evidence.

8. Offence under Section 353, PPC is bailable. The applicability of Section 324, PPC hinges upon evidence yet to be led at trial, thereby bringing the case within the ambit of *further inquiry* as envisaged under sub-section (2) of Section 497, Cr.P.C. The applicant has remained incarcerated since the date of his arrest, and no fruitful purpose is likely to be served by his continued detention. Reliance is placed on the dictum laid down in *Dost Mohammad alias Dosoo v. The State* (2017 P.Cr.L.J Note 248), wherein bail was granted in similar circumstances when the prosecution story lacked corroboration from independent sources and was found to be doubtful.

9. Accordingly, the applicant, Hubdar Ali, is admitted to post-arrest bail in both the aforementioned crimes, subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each, along with P.R. bonds in the like amount to the satisfaction of the learned trial Court.

10. It is clarified that the observations made herein are purely tentative and shall not prejudice the case of either party at trial.

These are the reasons for my short order dated 07.07.2025.

JUDGE