

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

1st Criminal Bail No.D-17 of 2025

Before:

Mr. Justice Khalid Hussain Shahani

Mr. Justice Muhammad Jaffer Raza

Applicant: Chakar son of Yar Muhammad Brohi
through Mr. Abdul Hakeem Brohi, Advocate.

The State: Through Mr. Ali Anwar Kandhro, Additional
Prosecutor General, Sindh a/w Abdul Qadeer
Palijo, Superintendent, District Prison,
Shikarpur on behalf of I.G.P. Sindh.

Date of hearing: 15.07.2025

Date of Judgment: 15.07.2025

ORDER

KHALID HUSSAIN SHAHANI, J.-. We intend to dispose of instant bail application, whereby applicant Chakar son of Yar Muhammad Brohi seeks post arrest bail in the case emanating from F.I.R No.91/2017, registered at Police Station Rustam, District Shikarpur under Sections 302, 402, 399, 324, 353, 148, 149 P.P.C, 6/7 ATA. The case has been challaned, which is now pending trial before the Court of Special Judge, Anti-Terrorism Shikarpur vide Special Case No. 19/2024 (*Re-The State v/s. Chakar and others*). The applicant preferred his bail plea before the Trial Court, which was declined by way of Order dated 08.10.2024; hence this bail application has been maintained.

2. The main crux of the prosecution case is that police party headed by SHO Rahib Ali of Police Station Rustam alongwith his staff proceed for patrolling in his jurisdiction, when they reached at bypass, they received spy information that at village Sardar Khadim Hussain Jatoi some persons duly armed with deadly weapons are available at link road of Sardar Khadim Hussain Jatoi for the purpose of coming robbery; the police party headed to the pointed place when at about 0600 hours they saw and identified accused Faqero alias Faqeer Muhammad, Chakar, Mir Hassan,

Muhammad Khan, Ali Dost armed with K.Ks and 3 unknown persons with G-3 rifles were available, where encounter took place, in result thereof P.C Qurban Ali received bullet injuries at the hands of accused Ali Dost and accused Muhammad Khan, which hit him on different parts of the body and he succumbed to the injuries at the spot; the police party apprehended accused Muhammad Khan at the spot while rest of the accused made their escape good, therefore, S.H.O made mashirs to P.C Abdul Raheem and PC Javed Ahmed and brought the dead body of P.C Qurban Ali to RBUT Hospital, Shikarpur for postmortem and shifted the accused to the police station where F.I.R. was lodged.

3. Learned counsel has contended that the applicant/accused is innocent and has been malafidely involved in the instant case with ulterior motives; that specific role has been attributed to co-accused Muhammad Khan, who caused firearm injuries to the deceased and role of mere presence and ineffective firing has been attributed to the presence applicant; that the police had let off the present applicant /accused and placed his name in column-2 of the challan; that all the witnesses are police officials and set up witnesses, hence false implication of the applicant/accused cannot be ruled out; that the police has cooked up instant story aims to save their skin from severe punishment of law, therefore, inspite of giving long bullock story, the prosecution case has no independent legs to stand upon. The counsel for the applicant further submitted that the alleged recovered weapon has been foisted upon the accused. In support of his contentions, learned counsel has placed reliance upon the cases reported as **1999 SCMR 1320 (Attaullah and 3 others v/s. The State, 2011 SCMR 1543 (Subeh Sadiq alias Saabo alias Kalu v/s. The State and others) and others and 2004 SCMR 864 (Yaroo v/s. The State.**

4. Learned Additional Prosecutor General appearing for the State has vehemently opposed the bail application on the ground that the applicant is a habitual offender and prior to this case, he had been accused of six other cases, registered at different police stations. Besides he was remained fugitive from law for about five years, therefore, he is not entitled for grant of bail.

5. We have heard learned counsel for the applicant, learned Additional Prosecutor General and have gone through the material made before us on record.

6. No doubt the applicant has been nominated in the F.I.R. but no specific role has been attributed to him except ineffective firing and the specific role has been attributed to co-accused Muhammad Khan and Ali Dost, who made straight fires upon P.C Qurban Ali, which resulted his death at the spot. During course of investigation the applicant was found innocent and his name was placed in column-2 of the report under section 173 Cr.P.C.. In this case, report issued by the Superintendent of Police, Shikarpur being No.PB/01/2018, dated 29.01.2018 has been placed on record, in which name of the applicant and co-accused Faqero alias Faqeer Muhammad were opined to be placed in column-2 of the challan due to lack of evidence on the basis of statements of the P.Ws. Report was also called from the Inspector General of Sindh Prisons and Corrections Service, Karachi, in which the applicant is shown to have been implicated in six cases. According to the counsel for the applicant, the applicant has been acquitted in five cases out of six and only instant one remains to be proceeded against him. In such an eventuality, application of section 353 P.P.C required further probe and it is yet to be established by the prosecution after recording evidence of its witnesses.

7. We are constrained to persuade and refer the dicta laid down by learned Division Bench of this Court in case of ***Qurban Ali and another v/s. The State (2006 MLD 530)***. In *supra* case identical issue was involved and the applicants therein were enlarged on bail during pendency of the trial.

8. In the light of above discussion and circumstances of the case coupled with the dicta laid down by this Court in the case referred to *supra*, we are of the considered view that the applicant has made out a good case for his release on bail during pendency of the trial within the meaning of sub-section (2) of Section 497 Cr.P.C. Hence case against him requires further enquiry. Consequently, instant Criminal Bail Application is hereby allowed. Applicant Chakar Brohi is admitted to bail subject to his furnishing a solvent surety in the sum of Rs.200,000/- (*Rupees Two Hundred*

Thousands only) and P.R bond in the like amount to the satisfaction of the learned trial Court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of either party at trial.

Judge

Judge

Manzoor