

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-217 of 2025

Applicants : i. Liaquat Ali @ Liaquat son of Kareem Bux,  
ii. Allah Ditto Khan @ Allah Ditto son of Huzoor Bux

Through Mr. Atta Muhammad Jalbani Associate of  
Mr. Yar Muhammad Jalbani, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 07.08.2025

Date of Short order : 07.08.2025

### **O R D E R**

**KHALID HUSSAIN SHAHANI, J.** – Accused Liaquat Ali @ Liaquat and Allah Ditto Khan @ AllahDitto are seeking pre-arrest bail for offence U/S 23-1(a) Sindh Arms Act, 2013, stemming out of FIR No. 18/2025, P.S. Daharki. Previously bail of accused was dismissed.

2. The prosecution case, as narrated in the FIR lodged on 04-02-2025 by ASI Sadhayo Khan Shar of P.S. Daharki, is that the complainant along with other police officials, duly armed and in uniform, was on patrol duty in a government vehicle. Upon reaching Sanko Phatak at about 1530 hours, they allegedly received spy information that the present applicants, namely Allah Ditto Mazari and Liaquat Mazari, were in unlawful possession of illicit arms and ammunition intended for supply to dacoits operating in the “kacha” area. Acting on such information, the police proceeded to the pointed place and at about 1630 hours allegedly saw the applicants putting Kalashnikov rifles into bags. On seeing the police, the applicants are said to have fled, abandoning the bags. These were taken into custody and, in the absence of private mashirs, two police officials, subordinates of the complainant were appointed as mashirs. Upon inspection, the bags allegedly contained three Kalashnikov rifles (two with magazines, one without), additional empty magazines, and 300 live bullets. The articles were sealed, mashirnama prepared, and the FIR registered under Section 23-1(a) of the Sindh Arms Act, 2013.

3. Learned counsel for the applicants argued that the applicants have been falsely implicated due to previous enmity. It was submitted that the father of applicant No. 2 and uncle of applicant No. 1, namely Hazoor Bux, had lodged FIR No. 10/2006

under Sections 395, 424, 342, 170 PPC at P.S. Daharki against officials of Shehzad Rangers Wing-42 and others, resulting in persistent harassment by the police. The defence maintains that the alleged recovery was not effected from the exclusive possession of the applicants; rather, the case is a foisted one. It was emphasised that no independent witnesses were associated despite the alleged occurrence being in a populated locality, and that both mashirs are interested police subordinates. Counsel argued that the applicants have no prior criminal record and the case falls within the ambit of “further inquiry” under Section 497(2) Cr.P.C., particularly when custody is not required for investigation. He further argued that pre-arrest bail may be granted where mala fide and ulterior motives are apparent and where recovery is from a place not under the exclusive control of the accused.

4. Conversely, learned Deputy Prosecutor General opposed confirmation of bail, contending that the applicants are nominated in the FIR with specific allegations of possessing prohibited arms intended for supply to criminals, and the nature of the offence disentitles them to discretionary relief. It was argued that the police had no enmity with the applicants, the recovery is supported by documentary evidence, and the seriousness of the charge under Section 23-1(a) Sindh Arms Act warrants denial of pre-arrest bail.

5. I have considered the submissions of both sides and examined the material on record. It is evident that the alleged recovery was made from bags lying on the spot, not from the personal possession of the applicants. The Honorable Apex Courts in number of cases has held that recovery from an open or accessible place, without proof of exclusive possession, weakens the prosecution’s case at the bail stage. Furthermore, both mashirs are police officials subordinate to the complainant, and no explanation has been offered as to why independent witnesses from the locality were not associated, which as per my views, raises doubts about the transparency of the alleged recovery proceedings.

6. The applicants have specifically alleged mala fide on the basis of prior litigation with the police, which is supported by a previous FIR on record. The Honorable Apex Court particularly in case of Rana Muhammad Arshad Vs. The State (PLD 2017 Supreme Court 427) reiterated that where mala fide and ulterior motives are prima facie established, pre-arrest bail may be granted to prevent abuse of process. Moreover, in *Tariq Bashir* (PLD 1995 SC 34), it was laid down that the mere fact of an offence falling within the prohibitory clause is not by itself a valid ground to refuse bail, particularly when the case requires further inquiry.

7. In this case, the question of whether the arms and ammunition were actually recovered from the possession of the applicants, and whether the same were foisted, is a matter that can only be determined at trial. The applicants have joined the investigation, and the prosecution has not shown that their custody is necessary for further recovery or investigation. In these circumstances, and keeping in mind the principles laid down in *Muhammad Tanveer v. The State* (PLD 2017 SC 733), I am of the tentative view that the case falls within the scope of “further inquiry” and that the applicants have made out a case for confirmation of pre-arrest bail.

8. Accordingly, for the reasons recorded above, and in continuation of my short order dated 07-08-2025, the interim pre-arrest bail granted to the applicants is confirmed on the same terms and conditions. The applicants shall continue to cooperate with the investigation and attend trial proceedings regularly.

9. Observations herein are tentative and shall not prejudice the trial Court in deciding the case on merits.

**J U D G E**