

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No.D-34 of 2025
(Asghar Vs. The State)

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of bail application.

26-08-2025.

M/s. Habibullah G. Gouri, and Azhar Hussain Abbasi
Advocates for the applicant.
Mr. Muhammad Ali Napar, Advocate for Complainant.
Mr. Riaz Hussain Khoso, Deputy Attorney General alongwith
Mehboob Ahmed, Deputy Superintendent of Rangers/Legal
Officer.
Mr. Ali Anwar Kandhro, Additional Prosecutor General, Sindh.

ORDER

Ali Haider 'Ada'J:- Through the instant bail application, the applicant seeks post-arrest bail in Crime No. 76 of 2015, registered at Police Station Garhi Yasin, for offences punishable under Sections 302, 324, 353, 148, 149, 427, PPC read with Sections 6/7 of the Anti-Terrorism Act, 1997. Prior to this application, the applicant had approached the learned Special Judge, Anti-Terrorism Court, Shikarpur, where his bail application was dismissed vide order dated 09.01.2025.

2. As per the prosecution, on 03.06.2015, complainant Manzoor Ahmed, Deputy Superintendent of Rangers (Shahbaz Wing, Larkana), along with DSR Abdul Jabbar Abbasi and other subordinate staff, proceeded from Rangers Headquarters to trace out certain notorious dacoits. A contingent of Rangers sepoy, traveling in different vehicles, reached the Larkana-Shikarpur main highway near village Gahi, where they encountered a group of armed accused persons. The accused, namely Afghan alias Ogbo, Muhammad Nawaz alias Nawaz, Ali Nawaz alias Kiwal, Asghar (present applicant), Amanullah (armed with G-3 rifles), and Babul, Ghulam Murtaza, Hussain Bux, Shahbaz, Sikandar, and Shahban (armed with K.Ks), appeared on motorcycles and opened indiscriminate firing upon the Rangers personnel. The encounter lasted for about ten minutes, during which DSR Abdul Jabbar lost his life due to the firing, while Sepoy Mushtaque and Sepoy Asmat sustained serious injuries. From the accused side, one Tharo alias Shahban alias Karo Marfani was killed during the encounter. A passerby, later identified as Abdul Qadir, also lost his life. Subsequently,

Sepoy Mushtaque Khan succumbed to his injuries and died, whereas Sepoy Asmat was admitted to the hospital for treatment. The FIR was eventually registered on 30.06.2015 at about 2100 hours. Upon completion of investigation, the final report was submitted, wherein the present applicant was shown as an absconder and later declared a proclaimed offender. Thereafter, the applicant was arrested on 11.03.2023 by the concerned SHO from District Jail, Shikarpur, and a formal memo of arrest was prepared.

3. Learned counsel for the applicant has argues that the applicant has been falsely implicated in this case, as there is no specific allegation of causing any firearm injury either to the deceased or to the injured witnesses. The role assigned to the applicant in the FIR is of a general and collective in nature, without attribution of any distinct act that could directly connect him with the commission of the alleged offences. Counsel further submits that it is a well-settled principle of law that when the role assigned to an accused is general in nature, and no overt act is specified, the case of such accused stands on a different footing from that of the main culprits attributed with effective roles. The learned counsel emphasizes that the prosecution is under a duty to establish the individual role and participation of each accused beyond any shadow of doubt, which, in the present case, is lacking against the applicant. Therefore, in view of the above legal position and the absence of a specific role against the applicant, prima facie entitled to the concession of bail pending trial.

4. On the other hand, learned Deputy Attorney General, as well as learned counsel for the complainant, oppose the bail plea and submit that the applicant is one of the principal culprits involved in the occurrence. Further argued that the applicant, along with his associates, resorted to indiscriminate firing, as a result of which three personnel lost their lives and one sustained injuries on the prosecution side, while even one accused from the culprits' side was also killed. Learned Deputy Attorney General contends that although in certain cases of alleged police encounters, Courts have observed that where no one sustained injuries or even police vehicles were not damaged, such incidents may be doubtful; however, in the present case, the incident is a genuine encounter wherein the accused persons, duly identified, opened indiscriminate firing on the law enforcement personnel in order to protect their dacoit community. This resulted in the martyrdom of Rangers officials, which, according to him, demonstrates the gravity of the offence. It has further been argued that the applicant remained at large for

about eight years and was subsequently arrested, and now seeks to take undue advantage by raising a plea of general role, which, in the given circumstances, is wholly misconceived.

5. Conversely, learned Additional Prosecutor General adopted the arguments advanced by the learned Deputy Attorney General and further added that the medical evidence fully corroborates the ocular account. It has specifically been argued that the applicant was shown to be armed with a G-3 rifle, and the post-mortem reports of the deceased confirm injuries caused by such a weapon. Learned Addl. PG also pointed out that the applicant is a fugitive from law, having absconded for a considerable period, and that his criminal record reveals his involvement in more than twelve criminal cases. In such circumstances, he does not deserve extraordinary concession of bail.

6. Heard the arguments of learned counsel for the parties and perused the material available on record with due care and caution.

7. No doubt, there are specific allegations against the applicant that he, along with the co-accused, participated in indiscriminate firing during which two Rangers personnel lost their lives and one sustained serious injuries. As a consequence of the same firing, even a passerby was killed, while from the accused side, one culprit also died. At this prima facie stage, these circumstances cannot be lightly discarded, nor can it be said that the encounter is doubtful. On the contrary, a bare reading of the prosecution case indicates that the encounter appears to be genuine and that the participation of the applicant in the occurrence is evident. The fact remains that during the encounter, soldiers of the State were martyred, which reflects the gravity of the offence.

8. Moreover, the applicant was arrested after a lapse of eight years, and head money was also fixed against him for rupees three millions as per notification issued by the Home Department, Government of Sindh and in such circumstances, he cannot be released on bail merely on the plea that no specific injury is attributed to him. The medical evidence is in full corroboration with the ocular account, and prima facie establishes the commission of murder in which the applicant is alleged to have participated.

9. Furthermore, the FIR was promptly lodged, and it is on record that the Pakistan Rangers were deployed in order to maintain peace in the affected area. However, when the Rangers personnel performed their lawful functions and duties, the dacoits and their associates offered resistance,

resorted to indiscriminate firing, and thereby created havoc. By committing such offences, the accused not only caused the loss of precious lives of Rangers personnel but also attempted to instill terror and fear in society. The circumstances suggest that the intention of the accused was to convey a message of fear, that if their demands were not met, the public and law enforcement alike would have to face dire consequences. The prima facie case has been established demonstrating the active involvement of the applicant in the commission of the offence; therefore, he is not entitled to the relief as claimed. In this regard, reliance is placed upon the pronouncements of the Hon'ble Supreme Court, including case of *Rashid Ramzan v. The State and others* (2022 SCMR 2111), *Ghani Khan v. The State and another* (2020 SCMR 594), *Muhammad Faiz alias Bhoora v. The State and another* (2015 SCMR 655), and *Abdul Qadir and 9 others v. The State* (2020 YLR Note 29).

10. In view of the above circumstances, we are of the considered view that the applicant has failed to make out a case for grant of concession of post-arrest bail. Accordingly, the bail application stands dismissed. Needless to mention, however, that the observations made herein are tentative in nature and shall not prejudice the case of either party. The learned trial Court shall decide the matter strictly on the basis of the evidence and material that may come before it during the course of trial.

JUDGE

JUDGE