

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application Nos.832 to 835 of 2025

Applicants : Through M/s. Muhammad Ilyas and  
Muhammad Nadeem Advocates.

Respondent : The State  
Through Ms. Seema Zaidi, Addl. P.G. Sindh.

Date of hearing : 08.04.2025.

Date of order : 08.04.2025.

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – The applicants, Muhammad Safdar, Jaleel, and Nazim Hussain, seek post-arrest bail in a case bearing crime No. 1354/2024, offence u/s 392, 397, and 34 read with Section 412 PPC of PS Shah Latif Town, Karachi. They are also involved in connected offshoot cases bearing crime Nos. 1355 to 1357 of 2024, registered under Section 23(i)(a) of the Sindh Arms Act (SAA). The applicants' earlier bail applications were declined by the learned Additional Sessions Judge-VIII, Karachi Malir, vide order dated 09.12.2024.

2. As per the prosecution's version, on 22.10.2024, the complainant Tariq, along with prosecution witnesses Shoaib and Muhammad Saddam Hussain, was traveling by motorcycle from Bhens Colony to Shah Latif Town. At about 12:10 p.m., they were intercepted by four unidentified individuals, armed with weapons, at PMTF Road near Matkey Wali Pulia, Shah Latif Town, Malir, Karachi. The suspects forcefully took the motorcycle and escaped. A nearby police mobile responded and initiated a chase. At about 12:25 p.m., the suspects were located and apprehended near Qasim Textile Mill on the Main National Highway with police assistance. The stolen motorcycle and firearms were recovered from the accused, and FIRs were subsequently lodged.

3. The applicants' counsel argued that applicants are innocent and have been wrongly implicated due to malafide intentions. He contended that the allegations are fabricated and the narrative against the applicants is concocted. He further maintained that the recovery under Section 412

PPC lacks proof of the applicants' conscious possession or knowledge of receiving stolen property. He took stance that applicants along with a minor Arif were apprehended by the police, whereby the custody of minor was handed over to Edhi Homes on the same day by the police. In support of such version placed on the record copy of letter issued by ASI Neik Zada of P.S. Shah Latif Town Malir Karachi, whereby on the following day the custody was handed over to his relatives Najeebullah and Muhammad Saifal. In support also placed on record their affidavits, hence took plea that in ordinary course it was beyond imagination that the applicants along with a minor committed robbery of a motorcycle and while roaming in the area apprehended along with lethal weapons without offering any sort of resistance. Additionally, he asserted that the offense under Section 397 PPC carries a maximum sentence of seven years, and thus, does not fall under the prohibitory clause of Section 497(1) Cr.P.C. Therefore, he requested that the applicants be granted bail.

4. The learned Additional P.G opposed the bail applications, asserting that the applicants bear no animosity towards either the complainant or the police that might suggest a motive for false implication. She argued that ample material evidence exists linking the accused to the alleged crimes. Furthermore, she emphasized that the nature of the offence is against the public at large, and there is a strong probability that the applicants may repeat such offences if granted bail.

5. A preliminary assessment of the case record indicates that the incident in question took place on 22-10-2024, at PMTF Road, Cattle Colony, Landhi, Karachi. As per the complainant's version, the police, soon after the occurrence, intercepted and apprehended three suspects. However, what raises considerable doubt is the fact that despite reportedly being armed, the accused made no attempt to resist arrest or escape, even when they had the opportunity. This inconsistency calls into question the accuracy of the narrative provided and necessitates further inquiry into the events surrounding the arrest. Determination of guilt or innocence shall be made after a full trial.

6. Additionally, the father and brother of the accused/applicants appeared before this court and submitted affidavits claiming that the accused were en route to perform work and were accompanied by Arif, a minor boy. According to these affidavits, all four were apprehended by the police, but only three were implicated in the case, while the fourth, being a

minor, was allegedly placed in an Edhi Homes. This contradictory account underscores the need for a more detailed investigation to uncover the truth and assess whether the accused were lawfully apprehended and implicated.

7. It is a well-established legal principle that while considering bail, the potential punishment associated with the alleged offense must be taken into account. In the present case, Section 397 PPC, which is applicable, carry a minimum sentence of seven years. Therefore, the applicants' case does not fall under the prohibitory clause of Section 497(1) Cr.P.C. In such circumstances, granting bail is the rule, and its denial is the exception. The investigation has been completed, and the challan has already been submitted; thus, the applicants are not required for further investigation.

8. In light of the above, the applicants have successfully made out a case for further inquiry within the meaning of Section 497(ii) Cr.P.C. Accordingly, they are granted post-arrest bail, subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees one lac only) each in the main case as well as the same amount surety in each offshoot case along with a personal bond, to the satisfaction of the learned trial court. These findings are tentative in nature and shall have no bearing on the merits of the case at the trial stage. Office is directed to place copy of this order in all connected cases.

**J U D G E**

Shahbaz/PA