

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CR. BAIL APPLN. NO. 1269 OF2025

Date	Order with Signature(s) of Judge(s)
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FOR HEARING OF BAIL APPLICATION

02.06.2025

Ch. Atif Rafiq advocate for the applicant
Mr. Qamaruddin DPG

Through this Bail Application, the applicant/accused seek bail before arrest bail in FIR No.209/2025 registered under Sections 320, 427 r/w 322, 114 PPC at P.S Defence, Karachi, after his bail plea has been recalled by learned Xth Additional Sessions Judge Karachi South vide order dated 16.05.2025.

- 2. Learned counsel for the applicant pleads that the applicant is owner of subject vehicle and was neither present at the time of incident nor was associated with alleged offence; nor nominated in the FIR; whereas person who was driving vehicle is in custody. Learned counsel for the applicant has been placed reliance upon the case reported in 2022 P.Cr. L.J. Note 40, 2000 P.Cr.L.J. 203, PLD 2021 SC 730, PLD 1995 SC 34 and 2017 SCMR 2060.
- 3. Conversely, learned DPG opposes bail on the ground that the applicant is the owner of subject vehicle and therefore vicariously liable.
- 4. Heard and perused the record.
- 5. From the record it appears that the name of applicant does not transpire in the FIR and the applicant has been nominated in the case at a later stage as being the owner of the vehicle. No punishment of any period has been provided under section 322 PPC except the payment of Diyat, whereas it is yet to be determined as to whether the punishment of payment of diyat would bring the case of the applicant within the prohibitory clause of section 497 CrP.C. The other two provisions for which the applicant has been charged being bailable, the applicant has made out a case of further inquiry on a tentative assessment of the record. Guidance in this regard can

be taken from the cases of: *Tariq Bashir* (PLD 1995 SC 34), *Yousuf Alam* (2000 P.Cr.L.J. 203); *Ameer Hassan* (2022 P.Cr.L.J. Note 40); 1998 MLD 1537; unreported Order dated 06.09.2011 in Criminal Bail Application No.980 of 2011 by High Court of Sindh; unreported Order dated 30.01.2023 in Criminal Bail Application No.1154 of 2022 by the High Court of Sindh in '*Arshad Ali v. The State*'; and unreported Order dated 05.03.2025 in Criminal Miscellaneous No.413-B of 2025 by the Islamabad High Court in '*Muhammad Saeed v. The State and another*'. Besides, the statement of eye witness recorded before the learned trial Court also does not connect the applicant with the present crime.

6. Considering above facts, circumstances and the legal position, the instant bail application is allowed and the interim pre-arrest bail granted by this Court to the applicant/accused vide order dated 17.05.2025 is hereby confirmed on same terms.

7. The observations made hereinabove are tentative in nature, which shall not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

MUSHARRAF ALI

1. Urgency granted.
2. Exemption application is granted subject to all just exceptions.
3. Applicant/accused Muhammad Shahid seeks pre-arrest bail in Crime No.285/2023, for offences under Section 377, PPC registered at P.S. Gabol Town. Prior to this, applicant/accused applied for the same relief before learned IInd Additional Sessions Judge Karachi (Central), the same was declined vide order dated 01.04.2024. It is inter-alia contended that the FIR is lodged by the complainant Shoaib Akhtar against the applicant/accused with ulterior motive and police is intending to arrest the applicant/accused with malafide intention.

Without touching merits of the case, **interim pre-arrest bail** is granted to the applicant/accused Muhammad Shahid son of Abdul Majeed, subject to his furnishing solvent surety in the sum of **Rs.100,000/-** (Rupees One Lac Only) and P.R. bond in the like amount to the satisfaction of the Nazir of this Court. Issue notice to Prosecutor General Sindh as well as complainant. Applicant/accused is directed to join investigation/trial forthwith. To come up on **07.02.2025** for confirmation or otherwise. Applicant/accused is directed to attend.

MUSHARRAF ALI

JUDGE