

**IN THE HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD.**

Criminal Bail Application No.S-449 of 2025

Applicant: Mashooque Ali through Mr. Irfan Ali Khaskheli, advocate.

Complainant: Through Mr. Ghulam Rasool Mallah, advocate.

The State: Through Ms. Safa Hisbani, Assistant Prosecutor General, Sindh.

Date of Order: 20.06.2025.

O R D E R

Muhammad Osman Ali Hadi, J – Through this instant bail application, the applicant/accused above-named seeks post-arrest bail in Crime No. 03/2025, registered under Sections 452, 436, 427, and 34 PPC at Police Station Chhachhar, District Jamshoro, after his bail plea was declined by the learned Additional Sessions Judge, Sehwan, vide Order dated 27.03.2025.

2. The details and particulars of the FIR are already available in the bail application and annexed copy of the FIR; hence, the same need not be reproduced herein.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case; that two co-accused have already been granted pre-arrest bail by the learned Trial Court; that the applicant was earlier arrested in another FIR lodged by the same complainant, in which he was granted bail, and upon his release, he was again arrested in the present FIR at the behest of the complainant, who is allegedly misusing the legal process due to personal enmity. He further submits that the instant FIR was lodged with a delay of almost two days, and apart from the allegation of burning tyres of a tractor, no other specific allegation has been ascertained against the applicant. Learned counsel also contends that no specific role has been attributed to the applicant, and in light of the rule of consistency, since the similarly placed co-accused have already been granted bail, the applicant is also

entitled to the same relief. He further submits that the alleged incident took place on 10.02.2025, but the trial has not yet commenced. In support of his contentions, learned counsel has relied upon the following case law: 2024 SCMR 43, 2004 SCMR 1560, 2018 YLR 128, and 2023 P.Cr.L.J. 1461.

4. On the other hand, learned counsel for the complainant argued that the applicant has been charged *inter alia* under Section 436 PPC (amongst others), which is punishable with imprisonment up to life. He stated there was an identification of the accused, and he should not be granted bail in the given circumstances.

5. Learned APG opposed the bail plea, submitting that a specific role has been assigned to the applicant, unlike the co-accused who were granted bail. Hence, she contends, the applicant is not entitled to the concession of bail.

6. I have heard learned counsels for the parties and perused the material available on record. A perusal of the FIR reveals that allegations are made against three accused persons, including the applicant. The FIR also includes Section 34 PPC, which denotes common intention, implying that all accused, including those granted bail, are allegedly involved in the same crime. *Prima facie*, the rule of consistency is attracted. When questioned, learned counsel for the complainant candidly admitted that no challenge has been made to the bail granted to co-accused. He also graciously conceded that the alleged damage is limited to the burning of tyres, and the extent of any additional damage is yet to be established through evidence.

7. In view of the above and keeping in mind that (i) the minimum punishment under Section 436 PPC is three years, (ii) the property allegedly damaged is limited only to burnt tyres, and (iii) the complainant has lodged multiple FIRs against the applicant; it appears there is no reason the present applicant should be denied bail, in accordance with the rule of consistency. Moreover, *prima facie*, there appears to be a personal enmity between the complainant and the applicant. Even otherwise, viewing the material on record, a case for further inquiry within the meaning of Section 497(2) Cr.P.C. is established. Accordingly, the instant bail application is allowed. The applicant/accused is admitted to post-arrest bail, subject to furnishing a solvent surety in the

sum of Rs.100,000/- and a P.R. bond in the like amount to the satisfaction of the learned Trial Court.

8. Needless to mention, the observations made hereinabove are tentative in nature and shall not prejudice the Trial Court while deciding the case on merits.

J U D G E

Irfan Ali