

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

Criminal Bail application No.S-999 of 2025

Criminal Bail application No.S-1000 of 2025

Criminal Bail application No.S-1004 of 2025

Criminal Bail application No.S-1129 of 2025

Applicants : 1. Ghulam Mustafa Shah @ Zain Shah s/o Karam Ali Shah through Mr. Mian Taj Muhammad Keerio, advocate.

2. Ali Khoso son of Mukhtiar Ahmed through Mr. Muhammad Nawaz Panjotha, advocate.

3. Muneer Dahot son of Munawar Dahot through Mr. Muhammad Saleem Leghari, advocate.

Respondent : The State, through Mr. Irfan Ali Talpur, Deputy Prosecutor General, Sindh.

Complainant : Kamran Ali s/o Ghulam Kazim through Mr. Abdul Shakoor Keerio, advocate alongwith complainant.

Date of hearing : 29.09.2025

Date of order : 29.09.2025

ORDER

TASNEEM SULTANA, J.- Through captioned bail applications, the applicants/accused above-named seek post-arrest bail in Crime No.212/2025, under Sections 324, 506(ii), 504, 147, 148, 149, 337-A(i), F(i) PPC, registered at PS Hatri, Hyderabad. Whereas, through Criminal Bail Application No.S-999 of 2025, the applicant Ghulam Mustafa Shah @ Zain Shah seeks pot-arrest bail also in Crime No.226/2025, under Sections 25-A, Sindh Arms Act, 2013, registered at same police station. Since all the captioned bail applications are interlinked to each other as such same are being decided through this common order.

2. It is alleged in the FIR that on 08.07.2025 the applicants/accused along with co-accused Arsalan Soomro, Abdul Rehman and four unknown persons picked up Farhan Ali alias Sono (the brother of complainant) in a car on the force of pistols, taken in the Hatri Jalsa Ground and beat him, opened fire and caused fire arm injury from pistol, so also caused lathies, hockey and kicks blows. They also recorded the video of the incident and shared on the social media platforms. Hence, FIR No.212/2025 was lodged.

3. On 19.07.2025 at 1430 hours during interrogation of above-mentioned crime, the applicant Ghulam Mustafa Shah @ Zain become ready to produce the crime used weapon; therefore, he led the police party of PS Hatri headed by ASI Abdul Hakeem Palari to near Jalsa Ground Hatri and on his pointation crime weapon i.e. unlicensed pistol was recovered. Hence, FIR No.226/2025 was also lodged against him under Sections 25-A of Sindh Arm Act, 2013.

4. Learned counsel for the applicant Ghulam Mustafa Shah @ Zain Shah has argued that the applicant/accused is a juvenile aged about 17 years; that as per settled law and Section 497(1) Cr.P.C, read with the Juvenile Justice System Act, 2018, a juvenile accused, particularly a first offender, is entitled to concession of bail even in cases falling under the prohibitory clause of Section 497 Cr.P.C, unless his release is likely to bring him into association with hardened criminals or expose him to moral, physical or psychological danger; that the complainant and injured have submitted affidavits of no objection, showing that the matter has been amicably resolved and the complainant does not wish to pursue the case; that the compromise substantially reduces the possibility of tampering with prosecution evidence and likelihood of conviction, which are relevant considerations under Section 497 Cr.P.C.; that the F.I.R was lodged with a delay of about two days without any cogent or plausible explanation, which suggests due deliberation and consultation prior to registration of the case; that recovery of pistol has been foisted upon him; that the applicant/accused has remained behind bars since his arrest. As the investigation is complete, challan has been submitted, and the applicant is no longer required for investigation, further incarceration would serve no useful purpose and amounts to pre-trial punishment, which is deprecated by the superior Courts.

5. Learned counsel for applicant Ali Khoso contended that the applicant is innocent and has falsely been implicated in this case; that FIR is delayed about two days; that Section 324 PPC has not attracted in this case which has been misapplied; that the complainant and injured have submitted affidavits of no objection, showing that the matter has been amicably resolved and the complainant does not wish to pursue the case; that the compromise substantially reduces the possibility of tampering with prosecution evidence and likelihood of conviction, which are relevant considerations under Section 497 Cr.P.C.

6. Learned counsel for the applicant Muneer Dahot contended that the complainant himself admitted in the FIR that there exists a personal grudge between his brother and co-accused Zain Shah; therefore, the present applicant/accused has no concern with the alleged offence; that the

applicant/accused had no knowledge of the incident; that no specific role has been assigned to the applicant/accused by the complainant party, nor is there any allegation that he caused any particular injury; that the applicant/accused does not know the co-accused persons, nor are they acquainted with him; that from the perusal of the FIR, it is apparent that the same was lodged after due deliberation and consultation; hence, false implication of the applicant/accused is evident.

7. In support of their contentions they have relied upon 2025 YLR 724 (*Muhammad Bux versus Shah Nawaz and others*), 2020 MLD 1841 (*Mumtaz Ali versus The State*), 2018 PCrLJ 928 (*Noor Muhammad versus The State and another*), and 2010 PCrLJ 379 (*Muhammad Ilyas versus The State and another*).

8. Learned Deputy Prosecutor General has opposed the grant of bail on the ground that the applicants are nominated in the FIR with specific roles; that sufficient material in shape of ocular, video recording in the USB and medical record is available on record which prima facie connects the applicants with the commission of alleged offence. He prayed for dismissal of the applications.

9. On the other hand, learned counsel for complainant has not opposed the captioned bail applications and filed affidavits of no objection, duly signed by complainant Kamran Ali and injured/victim Farhan Ali, for grant of bail to the applicants Ghulam Mustafa Shah @ Zain Shah and Ali Khoso.

10. Heard. Record perused.

11. From the perusal of the record, it appears that the FIR was lodged with a delay of about two days without furnishing any cogent or plausible explanation. Such delay in registration of FIR, particularly in criminal cases of this nature, creates serious doubt about the authenticity of the prosecution version and suggests deliberation and consultation prior to registration of the case. This aspect alone makes the case of the applicants one of further inquiry within the meaning of Section 497(2), Cr.P.C. In case titled "*Syed Aman Ullah Shah v. The State and another*" reported as PLD 1996 SC 241, the Apex Court has held as follows:-

"So whenever reasonable doubt arises with regard to the participation of an accused person in the crime or about the truth/probability of the prosecution case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail than in the jail, during the trial."

12. It is also pertinent to observe that except for Section 324, PPC, all other sections mentioned in the FIR are bailable in nature. Whether Section 324, PPC is attracted in the peculiar circumstances of the case is a matter which can only be determined by the learned trial Court after recording evidence. At this tentative stage, applicability of Section 324, PPC remains doubtful, thereby further fortifying the plea of further inquiry raised on behalf of the applicants. The remaining sections do not fall within the prohibitory clause of Section 497 CrPC. Grant of bail in such like offences is a rule and refusal thereof is an exception. In case titled "*Muhammad Tanveer v. The State and another*" reported as *PLD 2017 SC 733*, the Apex Court has held as under;-

"Once this Court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497, Cr.P.C. shall be a rule and refusal shall be an exception then, the Courts of the country should follow this principle in its letter and spirit because principles of law enunciated by this Court are constitutionally binding on all Courts throughout the country including the Special Tribunals and Special Courts."

Similarly, in case titled "*Tariq Bashir and 05 others v. The State*" reported as *PLD 1995 SC 34*, the Apex Court has also affirmed the same rational by observing that;-

"That grant of bail in offences punishable with imprisonment for less than ten years is a rule and refusal is an exception, which are missing in the present case."

13. Moreover, the complainant and the injured/victim appeared and recorded their no objection and have also submitted affidavits of no objection, categorically stating that they have resolved the matter amicably and that they do not wish to pursue the proceedings against applicants Ghulam Mustafa Shah @ Zain Shah and Ali Khoso. Such affidavits not only reduce the possibility of tampering with prosecution evidence but also substantially diminish the likelihood of conviction, which are material considerations while deciding bail under Section 497, Cr.P.C.

14. With regard to applicant Muneer Dahot, it is noted that in the FIR the role assigned to him is that of causing pistol butt blows to the injured, which falls within the ambit of Section 337-A(ii), PPC, punishable with imprisonment of up to five years. The said offence does not fall within the prohibitory clause of Section 497, Cr.P.C. Moreover, in view of the affidavits of no objection filed by the complainant Kamran Ali and injured/victim Farhan Ali for grant of bail to applicants Ghulam Mustafa Shah @ Zain Shah and Ali Khoso, the case of applicant Muneer Dahot assumes an even stronger footing for bail, as his attributed role is comparatively lesser in gravity than that of the said co-accused. Thus, on the touchstone of Section 497(2), Cr.P.C., his case also becomes one of further inquiry entitling him to the concession of post-arrest bail.

15. The challan in the case has already been submitted before the trial Court. Hence, the custody of the applicants is no longer required for further investigation. The law is settled that once the investigation is complete and challan has been filed, further incarceration of an accused amounts to pre-trial punishment, which is not permissible in the eyes of law.

16. As regards the alleged recovery of unlicensed pistol from applicant Ghulam Mustafa Shah @ Zain Shah, the same is shown to have been recovered during police custody and on pointation. Such type of recovery, in the absence of any independent mashir, is always open to doubt. At this stage, therefore, reliance upon such recovery alone cannot be made a ground to deny bail to the said applicant.

17. Furthermore, applicant Ghulam Mustafa Shah @ Zain Shah has claimed juvenility being about 17 years of age. In view of Section 497(1) Cr.P.C., read with the Juvenile Justice System Act, 2018, a juvenile accused, particularly a first offender, is entitled to concession of bail unless his release is likely to associate him with hardened criminals or expose him to moral, physical or psychological danger. No such apprehension has been pointed out by the learned D.P.G. in the present case. Hence, on this ground also, applicant Ghulam Mustafa Shah @ Zain Shah is entitled to bail.

18. It is a well-settled principle of law that deeper appreciation of evidence is not warranted at the bail stage, and determining the merits of the case at this point would be inappropriate.

19. For the foregoing reasons, I am of the considered view that the applicants have made out a case of further inquiry falling within the ambit of Section 497(2), Cr.P.C. Accordingly, captioned bail applications are allowed, and the applicants namely (i) Ghulam Mustafa Shah @ Zain Shah, (ii) Ali Khoso, and (iii) Muneer Dahot are admitted to post-arrest bail, subject to their furnishing solvent surety in the sum of Rs.50,000/- each and P.R. bond in the like amount to the satisfaction of the learned trial Court.

20. It is clarified that the observations made hereinabove are purely tentative in nature and shall not prejudice the case of either party during the course of trial.

JUDGE