

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-868 of 2025

Applicant : Khalid son of Imam Bux Khushik  
Through Ghulam Murtaza Buriro, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 13.10.2025  
Date of order : 13.10.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.**— Applicant Khalid son of Imam Bux Khushik seeks post-arrest bail in a case bearing crime No.318 of 2025, for offences under Sections 324, 353, 399, 402, and 34 PPC, registered at Police Station B-Section Khairpur. It is pertinent to note that the learned Additional Sessions Judge-IV (GBVC), Khairpur, had earlier declined bail to the applicant vide order dated 11<sup>th</sup> September, 2025.

2. The prosecution alleges that on the night of 21<sup>st</sup> August 2025, complainant Head Constable Raheem Bux Narejo, accompanied by his subordinate police staff, proceeded on patrol and received intelligence regarding the presence of four armed individuals at Panjal Kalhoro, purportedly with intent to commit a criminal offence. Upon arrival at the location at 2200 hours, an encounter is said to have ensued between the police party and the accused persons, lasting for fifteen minutes. It is further alleged that the applicant sustained firearm injuries, while his associates fled the scene.

3. Counsel for the applicant has submitted that the applicant is entirely innocent and has been falsely implicated. It is asserted that no such encounter took place, and the applicant was arrested unlawfully with mala fide intentions and ulterior motives. The defense contends that the applicant was in fact subjected to a physical assault by the police, as only the accused parties sustained injuries while no police personnel suffered harm, thereby casting

serious doubt on the prosecution's version. Further, reliance is placed on the necessity for further inquiry in terms of Section 497(2) of the Code of Criminal Procedure. It is submitted that Section 324 PPC is inapplicable as no injuries were caused to the complainant party and that the prosecution has failed to cite any independent witnesses, which constitutes a violation of the mandatory provisions of Section 103 Cr.P.C.

4. Conversely, the Deputy Prosecutor General representing the State opposes the grant of bail. It is contended that the applicant is specifically named in the First Information Report as an armed participant in the commission of the offence and that mere presence at the scene does not absolve him from liability. The learned prosecutor further submits that the applicant's affiliation with an unlawful assembly armed with deadly weapons prima facie renders him liable under Section 149 PPC for sharing the common object. Accordingly, the State prays for dismissal of the bail application.

5. After hearing learned counsel for the parties and upon careful scrutiny of the record, it is observed that the offences alleged under Sections 324, 353, 399, and 402 PPC do not attract the prohibitory clause of Section 497 Cr.P.C., particularly since the maximum punishment under Section 324 PPC does not exceed seven years' imprisonment. The prosecution's narrative is fraught with inconsistencies, notably the phenomenon that only the accused sustained injuries during the purported encounter, allegedly inflicted by their own companions, while police officials remained unharmed. Moreover, the absence of independent witnesses to the recovery is a violation of Section 103 Cr.P.C. The prosecution case rests solely on police testimony without independent corroboration. It is a settled principle of law that every accused is presumed innocent until proven guilty through due process, and where reasonable doubt persists at the bail stage, the benefit thereof shall accrue to the accused.

6. The applicant's clean antecedents and absence of any record as a habitual or dangerous offender weigh in favor of his release. Continued incarceration would serve no useful purpose in the cause of justice at this preliminary stage, whereas the merits of the prosecution's case can only be determined after recording evidence at trial.

7. In light of the foregoing, and considering that the matter warrants further inquiry as envisaged under Section 497(2) Cr.P.C., the application for bail is hereby allowed. The applicant shall be admitted to bail upon furnishing a solvent surety in the sum of Rs. 50,000 (Rupees fifty thousand only) and a personal bond of the like amount, to the satisfaction of the learned trial Court.

8. It is, however, expressly clarified that the observations made hereinabove are tentative in nature and shall not prejudice the trial Court in its final adjudication after trial.

**J U D G E**