

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. **3516 of 2025**

Before:

Justice Zafar Ahmed Rajput, CJ
Justice Jan Ali Junejo

Applicant : Muhammad Waqas s/o Laiq Khan, through Mr. Shamsul Hadi, advocate

Respondent : The State, through Mr. Abrar Ali Khichi, Addl. Prosecutor General, Sindh (**Addl. PG**), along with Mr. Tasawwur Ahmed, Inspector CTD

Date of hearing : 05.03.2026

Date of order : 05.03.2026

ORDER

ZAFAR AHMED RAJPUT, CJ.- Applicant/accused named above being abortive to get the concession of post-arrest bail from the Anti-Terrorism Court No. XV, Karachi ("**Trial Court**") in Cr. Bail Application No. 99 of 2025, vide order dated 08.12.2025, through the instant application seeks the same concession from this Court in Crime/**FIR No. 90 of 2025**, registered at Police Station CTD, Karachi under section 23 (1) (a) of the Sindh Arms Act, 2013 (**the "Act"**) read with section 7 of the Anti-Terrorism Act, 1997.

2. As per Prosecution's case, on 28.11.2025, SI-Saqib Malik of CTD Sindh, Karachi during patrolling, alongwith his sub-ordinate staff, for arresting the absconding accused and proclaimed offenders, received spy information that three terrorists of BLA involved in terrorist activities were present at Akhri Bus Stop, 20 Number Ada, opposite Kosar Masjid, Shireen Jinnah Colony, Keamari, Karachi. On such information, police party reached the pointed place at 0100 hours and, on the pointation of informer, arrested (1) Zafarullah s/o Hibatullah, (2) Junaid Ahmed s/o Nabi Bux and (3) Muhammad Waqas s/o Laiq Khan (*Present Applicant*). Upon their search, from the possession of Zafarullah, one hand grenade alongwith pin was recovered; from the possession of Waqas, one 9mm pistol alongwith magazine containing 03 live rounds were recovered while from possession of accused Junaid, one hand grenade alongwith pin was

recovered. After completing requisite formalities, the police party alongwith accused person reached police station and the FIR No.88 and 89 of 2025 under section 4/5 Explosive Substance Act was registered against the accuse persons. While a separate **FIR No.90 of 2025** under section 23(1)(a) of the Act was registered against the Applicant.

3. Learned counsel for the Applicant has mainly contended that Applicant is innocent and has committed no offence and the alleged pistol has been foisted upon him; that the Applicant is a Pashtun; permanent resident of Mardan, KPK, who has nothing to do with so-called terrorist activities of BLA, has been involved in a false case by the police; that the pistol does not come within the definition of firearms or ammunition but within arms and hence the police has misapplied section 23 (1) (a) at the place of section 24 of the Act, which offence does not fall within the prohibitory clause of section 497, CrPC being punishable with imprisonment for a term which may extend to ten years; that despite prior information, police failed to associate any private mashir and thus the alleged recovery is in violation of section 103, CrPC.

4. Conversely, learned Addl. PG has maintained that the Act has been enacted to curb the proliferation of arms and ammunition in the society and since offence falls within the prohibitory clause of section 497, CrPC, he opposes the application.

5. We have heard the learned counsel for the Applicant as well as learned Addl.PG and perused the material available on record with their assistance.

6. In order to appreciate the contentions of learned counsel for the Applicant, we deem it appropriate to reproduce the relevant provisions of section 23 (1)(a) and section 24 of the Act, as under:

23. Punishment for certain offences. - (1) Whoever -

(a) acquires, possesses, carries or control any firearm or ammunition in infringement of section 3, shall be punishable with imprisonment for a term which may extend to fourteen years and with fine;

24. Punishment for possessing arms with intent to use for unlawful purposes. - Whoever possesses arms or ammunition licensed or unlicensed with the aim to use them for any unlawful purpose or to facilitate any other person to use them for any unlawful purpose shall, whether such unlawful purpose has been materialized or not, the license holder, the user and the person who has no license, be punishable with imprisonment for a term which may extend to ten years and with fine.

(Emphasis supplied)

Terms “firearm”, “ammunition” and “arms” have been defined under section 2 (b), (c) and (d) of the Act, as under:

2. Definitions. - in this Act, unless there is anything repugnant in the subject or context: -

- (a) -----
-
- (b) “ammunition” means ammunition for any firearm, and includes –
 - (i) rockets, bombs, gun powder, shells, detonators, cartridges, grenades;
 - (ii) articles designed for torpedo service and submarine mining;
 - (iii) other articles containing, or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas etc. whether capable of use with firearms or not;
 - (iv) charges for firearms and accessories for such charges;
 - (v) fuses and friction tubes; and
 - (vi) parts and machinery for manufacturing ammunition;
- (c) “arms” means articles, designed as weapons of offence or defence and includes rifles, pistols, revolvers, grenades, swords, bayonets, and other lethal weapon. It shall also include machinery (and its parts) for manufacturing arms, but excludes articles designed solely for domestic or agricultural purposes and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapon;
- (d) “firearms” means weapons designed to discharge a projectile or projectiles of any kind by the action of gun powder or any explosive or other forms of energy and includes –
 - (i) artillery hand-grenades, riot-pistols or weapons of any kind designed for the discharge of any noxious liquid, gas etc.;
 - (ii) accessories for any such firearm, intended to diminish the noise or flash caused by the firing thereof;

- (iii) parts of, and machinery for manufacturing fire-arms; and
- (iv) carriages, platforms and appliances for mounting, transporting and serving artillery;

7. The Applicant has been booked in the instant case for an offence under section 23(1)(a) of the Act for allegedly possessing one unlicensed “pistol”. It appears from the bare reading of the aforementioned provisions of the Act that the “pistol” does not come within the definition of firearm and ammunition described in Section 23 (1)(a) of the Act, as defined under section 2 (b) and (d) (*ibid*) but within the purview of arms as expressed under section 24 of the Act and defined under section 2 (c) (*ibid*). As such, looking to the facts of the FIR, it is not the section 23 but 24 of the Act which is apparently applicable to the case of the applicant, which provides punishment with imprisonment for a term which may extend to ten years and with fine.

8. The Applicant is confined in judicial custody since the day of his arrest and police has submitted the challan against him; hence he is not required for further investigation. Despite prior information and roadside, police failed to join any private person to witness the search and recovery process. Record is also silent as to whether Applicant is a habitual or previous convict or involved in any terrorist activities. Admittedly, prosecution has no records showing a link of the Applicant with the BLA. All the witnesses are police officials; therefore, there is no apprehension of tampering with the prosecution evidence. The case of the Applicant is pending for adjudicating into his guilt before the Trial Court. The discretion is however left open with the trial Court by the legislature either to award maximum punishment of ten years imprisonment to the Applicant or to award lesser punishment keeping in view the surrounding circumstances commensurate with the nature of the case. The Court while hearing bail application does not have to keep in view the maximum sentence provided by statute but the one which is likely to be entailed in the facts and circumstances of the case. Therefore, keeping in view the facts and circumstances of the case, *prima facie*, case against the Applicant requires further enquiry as contemplated

under subsection (2) of Section 497, CrPC Accordingly, the Applicant is entitled to be released on bail.

9. In view of above, the Applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.2,00,000/- (*Rupees Two Lac Only*) and P.R. Bond in the like amount to the satisfaction of the Trial Court.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the Applicant on merits. However, in case the Applicant misuses the concession of bail in any manner, the Trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

The instant Criminal Bail Application stands disposed.

Athar Zai

JUDGE

CHIEF JUSTICE