

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.553 of 2025

Applicant : Muhammad Arif Reki  
through Mr. Mallag Assa Dashti, Advocate

Respondent : The State  
through Mr. Sarfaraz Ali Mangi, Special  
Prosecutor ANF.

Date of hearing : 27.03.2025

Date of order : 27.03.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – The applicant, Muhammad Arif Reki, has filed a post-arrest bail application in Crime No. 08/2004, registered under Section 6/9-C of the CNS Act, 1997, at P.S ANF Clifton, Karachi. However, this application was rejected by the learned Judge of the Special Court-II (CNS), Karachi, through an order dated 24.02.2025.

2. According to the prosecution's account, on 05.06.2004, an ANF team led by SI Nisar Ahmed seized 141.700 kilograms of 'Charas' and 04 kilograms of 'Heroin' from House No. F-27, Block-10-A, Gulshan-e-Iqbal, Karachi. During the operation, they arrested accused Syed Kazim Raza, Abdul Ghani, and Muhammad Murad. Upon inquiry, the apprehended chowkidar, Abdul Ghani, revealed that the house belonged to Sardar Aqil Kubdani and that accused Arif was his friend. Consequently, the case was registered based on these facts.

3. It is significant to note that the applicant and co-accused Sardar Aqil Kubdani remained absconding during the initial phase of the trial, leading to them being declared proclaimed offenders. As a result, the trial proceeded against co-accused Syed Kazim Raza, Abdul Ghani, and Muhammad Murad, who were subsequently convicted and sentenced by the learned trial court. In Criminal Appeals Nos. 434, 435, and 404 of 2011, the sentences awarded to Syed Kazim Raza and Muhammad Murad were upheld with some modifications. However, appellant Abdul Ghani was acquitted through a consolidated judgment dated 21.11.2015 by this court.

4. The applicant, Muhammad Arif, was later arrested and sent for trial through a supplementary report.

5. At the outset, the learned counsel for the applicant contended that the applicant has been falsely implicated by the ANF police. He was not apprehended from the crime scene, and the only allegation against him is based on the statement of co-accused Abdul Ghani, which, under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, holds no evidential value. Furthermore, the applicant was acquitted by this court through a judgment dated 21.11.2015. Despite prior knowledge, the police did not involve any independent private witnesses from the vicinity or record the seizure or arrest through photographs or video, which raises doubts about the credibility of the proceedings. Since the case has been challaned and the applicant is no longer required for further investigation, the learned counsel prayed that the applicant be granted bail. To substantiate his argument, reliance was placed on several reported cases, including Gul Manan Vs. The State [2021 SCMR 1804], Khan Zeb Vs. The State [2020 SCMR 444], Mst. Nadia Vs. The State [2023 YLR 171], Saida Gul Vs. The State [2020 YLR Note 8 Peshawar], Nasir Aziz & another Vs. The State [2020 YLR 1429 Peshawar], Atif ur Rehman Vs. The State & another [2021 SCMR 324], Hussainullah Vs. The State & another [2019 SCMR 1651], Salman Farooq Vs. The State & another [2019 YLR Note 69], Abdul Qudoos Vs. The State [2012 YLR 2387 Lahore], Abdul Ghafoor and another Vs. The State [2020 P.Cr.L.J 1512], Dad Khan Vs. The State [2020 SCMR 2062], Amir Muhammad Siddiq & another Vs. The State [2023 P.Cr.L.J Note 10], and Qamar Zaman Vs. The State [2017 YLR 874].

6. Conversely, the learned Special Prosecutor for ANF strongly opposed the bail application, asserting that there is no indication of mala fide intent on the part of the ANF police to falsely implicate the applicant. He further argued that since the applicant had remained absconding for approximately twenty years, hence he has lost his procedural rights and not entitled to the relief being sought.

7. According to the prosecution's case, the applicant, Arif Reki, was a friend of the house owner, Sardar Aqil Kubdani, and during the trial, proceedings under Sections 87 and 88 Cr.PC were initiated against them. The primary allegation against the applicant is based on the statement of

the house's chowkidar, Abdul Ghani, who was arrested along with the principal accused from the scene. The trial against Syed Kazim Raza, Abdul Ghani, and Muhammad Murad commenced, leading to their conviction by the learned trial court. However, in Appeal No. 434/2011, Abdul Ghani was acquitted through a judgment dated 21.11.2015. During arguments, the learned counsel for the applicant pointed out that the investigation officer claimed the recovery of a bank opening form from the crime scene, yet the memo of arrest and seizure was silent on this aspect. The record indicates that apart from the statement of co-accused Abdul Ghani, there is no substantial evidence linking the applicant to the alleged offense. Such statements, as per Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, hold no evidential value. Though the applicant had remained absconding for twenty years, as pointed out by the learned DPG, this fact alone does not disqualify him from seeking bail if the other circumstances merit such relief. Reliance is placed on the case of Raja Muhammad Younus Vs. The State (2013 SCMR 669), where the Hon'ble Court ruled that an accused cannot be implicated solely on the basis of a co-accused's statement before the police. Similarly, in the case of Mazhar Ali Vs. The State and another (2025 SCMR 318), it was held that mere absconding does not serve as ground to deny bail if the applicant is otherwise entitled to the relief on merits.

8. In light of the above, it appears that the applicant has successfully established a case that warrants further inquiry, as contemplated under Section 497(ii) Cr.PC. Consequently, the applicant is granted bail upon furnishing solvent surety and a P.R. bond in the sum of Rs.200,000/- (Rupees Two lac only), to the satisfaction of the Nazir of this court

9. These observations are of a tentative nature and shall not influence the outcome of the trial or prejudice either party.

**J U D G E**

shahbaz