

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application Nos.422 & 424 of 2025

Applicant : Muhammad Asif s/o Muhammad Iqbal
through Mr. Anwar Hussain Kalwar Advocate

Respondent : The State
through M/s. Rubina Qadir Addl. P.G. & Fayyaz
Hussain Saabki APG.

Date of hearing : 25.03.2025

Date of order : 27.03.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Through the titled criminal bail applications, the Applicant Muhammad Asif seeks post-arrest bail in connection with Crime Nos. 793/2024 offence u/s 397 PPC and Crime No.794/2024 offence u/s 23(i)(A) of the Sindh Arms Act, 2013. The bail plea of the applicant was previously rejected twice by the learned IIIrd Additional Sessions Judge, Karachi East, vide orders dated 21.12.2024 and 04.02.2025.

2. According to the prosecution's version of events, on 01-12-2024 at about 1530 hours, the complainant was returning home on his motorcycle when he was intercepted by three armed individuals near Rashid Minhas Road towards Johar Mor, Gulshan-e-Iqbal, Karachi. At gunpoint, they forcibly robbed him of his mobile phone and a cash amount of Rs.500. Shortly thereafter, another motorcycle rider, later identified as Noman, was also intercepted and robbed. The hue and cry raised by the victims attracted public attention, leading to the apprehension of one of the robbers while attempting to flee. The apprehended individual, identified as Muhammad Asif, was maltreated by the enraged public before being handed over to the police mobile of PS Aziz Bhatti, along with the weapon used in the offence. During the initial investigation, the accused disclosed the names of his accomplices as Rashid and Kareem, who managed to escape from the scene. In view of these facts, cases were registered against the accused under the relevant provisions of law.

3. Learned counsel argued that the applicant has been falsely implicated due to personal enmity with the complainant. He contended that aside from the recovery of weapons, no incriminating evidence was recovered to link the applicant directly with the commission of the alleged robbery. He emphasized that despite the alleged presence of public witnesses who apprehended and maltreated the applicant, no private person was associated as a witness, raising doubts about the prosecution's version. Furthermore, the learned counsel submitted that no specific role was attributed to the applicant in the commission of the alleged offence, which further weakens the prosecution's case. In support of his contentions, he placed reliance on the judgments passed by the Hon'ble Supreme Court of Pakistan in the cases of *Ali Ahmed v. The State* (2007 YLR 1144) and *Muhammad Shafique v. The State* (2021 PCr. L.J. 1553), where it was observed that absence of corroborative evidence and failure to associate independent witnesses may cast doubt on the veracity of the prosecution's case, entitling the accused to the concession of bail.

4. On the other hand, the learned Assistant Prosecutor General (APG) raised objections by arguing that the applicant was apprehended at the crime scene and was maltreated by the public due to his involvement in the alleged offence. He further contended that the ocular evidence, which was corroborated by the medical and circumstantial evidence, establishes a prima facie case against the applicant, thereby disentitling him to the concession of bail.

5. A thorough examination of the record reveals that the applicant, along with two accomplices, committed robbery at gunpoint by depriving the complainant of his mobile phone and cash amounting to Rs.500, and another passerby, Noman, was similarly victimized. Upon the hue and cry raised by the victims, the applicant was apprehended at the scene, whereas his accomplices managed to escape. The applicant was subsequently subjected to maltreatment by the public, and his arrest is corroborated by ocular evidence, further supported by the medical report issued by the Medico-Legal Officer of Jinnah Postgraduate Medical Centre, Karachi, which documented multiple injuries on his face and other body parts. Additionally, a robbed mobile phone belonging to the complainant and an unlicensed 9mm pistol loaded with two live rounds were recovered from the applicant, leading to the registration of another case bearing Crime No. 794/2024 offence u/s 23(i)(a) of the Sindh Arms

Act, 2013. No element of enmity, malafide, or ulterior motive has been suggested against the complainant or the police to suggest false implication of the applicant. The learned trial court, in rejecting the bail applications, has rightly relied on the principles laid down by the Hon'ble Supreme Court of Pakistan, where the recovery of incriminating material and absence of any mala fide inference against the prosecution disentitle the accused from the concession of bail. The orders impugned reflect a proper appreciation of the material available on record, leaving no justification for interference at this stage.

6. I have also examined the case law relied upon by the learned counsel for the applicant, but the facts and circumstances of the instant case are materially distinguishable. In *Ali Ahmed v. The State* (2007 YLR 1144), the accused was a juvenile, and recovery of only Rs.300 was effected despite the complainant alleging a robbery of Rs.600. Similarly, in *Muhammad Shafique v. The State* (2021 PCr. L.J. 1553), the case primarily revolved around the recovery of illicit arms, which is not the sole determining factor in the present case. In contrast, the applicant in the instant case was apprehended at the spot by the complainant and eyewitness Noman, along with the recovery of illicit weapons. The applicant was also subjected to maltreatment by the public, and the ocular account is duly corroborated by medical evidence documenting multiple injuries on his body. The principles laid down by the Hon'ble Supreme Court of Pakistan emphasize that where ocular evidence is supported by medical and circumstantial evidence, and the accused is apprehended at the crime scene, the case for bail is weakened considerably.

7. In view of the foregoing analysis, the applicant has failed to establish a case for further inquiry as required under Section 497(ii) Cr.P.C. The evidence available on record, including ocular, medical, and circumstantial evidence, prima facie connects the applicant with the commission of the alleged offence. The principles laid down by the Hon'ble Supreme Court of Pakistan dictate that when there is sufficient material to establish a nexus between the accused and the alleged offence, the concession of bail cannot be extended without exceptional circumstances. Consequently, the instant bail applications stand dismissed.

J U D G E