

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

1st. Criminal Bail Application No.S-102 of 2025

Applicant: Irshad Ali son of Suhrab Ali Khokhar, through Mr. Rafique Ahmed K. Abro, Advocate.

The Complainant: Ali Asghar Khokhar through Mr. Ghulam Akbar Lahsari, Advocate

The State: through Mr. Nazir Ahmed Bhangwar, DPG.

Date of hearing: 28-03-2025

Date of Order: 28-03-2025

ORDER

Jan Ali Junejo, J.—Through present Criminal Bail Application, the Applicant challenges the order dated 12.02.2025 passed by the learned Ist Additional Sessions Judge, Larkana in Criminal Bail Application No. 181 of 2025, whereby his request for bail was denied. The Applicant has been implicated in FIR No. 03/2025, registered at Police Station Rehmatpur (District Larkano) under Sections 337-L(i), 337-L(ii), 336, 506, and 34 PPC. Following the rejection of his bail plea by the trial Court, the Applicant has approached this Court, seeking post-arrest bail.

2. The prosecution case, as per FIR No.03/2025 lodged by complainant Ali Asghar Khokhar at Police Station Rehmatpur on 10.01.2025, unfolds as follows:

- The complainant, a resident of Khuhawar Street, Khokhar Chowk, Nazar Mohalla, Larkana, alleges that accused persons—1. SDO Ali Asghar Shaikh (son of Abdul Rauf Shaikh), 2. Line Superintendent Irshad Ali (son of Sohrab Ali Khokhar), and private individuals 3. Anwar Ali Kori (son of Mehboob Ali Kori) and 4. Bilawal Tagar (son of Barkat Ali Tagar)—colluded to illegally supply electricity by drawing a “special line” from a Disposal phase. This

unauthorized setup involved crossing an 11,000-volt electric line over the complainant's shop.

- On 03.03.2024 at 1:30 PM, while the complainant, his brother Noor Hussain, son Ali Raza, and nephew Ihsan Ali were at their hotel, a PVC wire connected to the high-voltage line snapped, electrocuting Noor Hussain. The electric surge caused severe burns across his body. Despite rushing him to the police station, authorities denied a medical referral letter, forcing the complainant to transport the injured to Trauma Centre, Larkana. Due to the gravity of injuries, he was referred to Burns Centre, Karachi, where he remains under treatment.
- The FIR further states that the accused, abusing their official positions (in the case of public servants) and acting in collusion, ignored repeated objections from the complainant and his family regarding the dangerous installation. The illegal activity allegedly persisted for monetary gain, culminating in the life-threatening incident.
- Prior to lodging the FIR, the complainant approached the 1st Additional Sessions Judge, Larkana, securing an order dated 21.09.2024. The accused challenged this order before this Court, which passed an order on 06.01.2025, ultimately leading to the registration of the FIR.

3. Learned counsel for the Applicant, *Mr. Rafiq Ahmed K. Abro*, strenuously argued that the Applicant's name was falsely implicated in the FIR despite a plea of alibi substantiated by verified SEPCO office orders (dated 23.02.2024, 21.03.2024, and 23.04.2024), which conclusively demonstrate his absence from Chandka Sub-Division during the incident. He emphasized the 11-month delay in FIR lodgment, absence of independent witnesses, and lack of technical evidence linking the Applicant to the illegal wiring. Further, he contended that the Investigating Officer (IO) failed to rebut the alibi during investigation, rendering the prosecution's case inherently doubtful. Relying on *Section 497(2) Cr.P.C.*, he asserted that the case warrants bail as it necessitates further inquiry into the Applicant's role, particularly when the investigation is complete and prolonged incarceration serves no purpose. Lastly, the learned counsel for grant of bail.

4. Learned counsel for the Complainant, *Mr. Ghulam Akbar Lashari*, countered that the Applicant, as a SEPCO Line Superintendent (LM-II), bore statutory responsibility for ensuring safe electricity distribution. He stressed that the FIR explicitly names the Applicant as a conspirator in the illegal installation, corroborated by witness statements under *Section 161 Cr.P.C.*, which attribute negligence to him. He dismissed the alibi as inconclusive, noting that the illegible office order (23.02.2024) and subsequent postings do not categorically disprove the Applicant's presence at the crime scene. Highlighting the grievous injuries (*Itlaf-i-Salahiyyat-i-udw*) caused by the 11,000-volt electrocution, he argued that the Applicant's release would endanger public confidence in justice, particularly when the offence involves dereliction of duty by a public servant. Lastly, the learned counsel prays for dismissal of bail application.

5. Learned Deputy Prosecutor General, *Mr. Nazir Ahmed Bhangwar*, aligned with the Complainant's stance, underscoring the gravity of offences under *Sections 336, 337-Li/Lii PPC*, which entail severe penalties. He asserted that the Applicant's supervisory role in SEPCO inherently implies advertent negligence, as he failed to prevent unauthorized connections. The DPG further argued that the delay in FIR lodgment was due to the Complainant's pursuit of judicial remedies, which does not dilute the prosecution's credibility. Urging strict adherence to precedents, he submitted that bail ought to be refused to uphold accountability in public office. Lastly, the learned DPG prays for dismissal of bail plea.

6. Having carefully reviewed the submissions presented by the learned counsel for the Applicant, the counsel representing the

Complainant, and the learned Deputy Prosecutor General (DPG) for the State, I have conducted a preliminary evaluation of the evidentiary material on record, as permissible under legal standards at the bail adjudication stage. The central question for determination is whether the Applicant's claim of alibi, supported by authenticated documentary evidence, merits the grant of bail under Section 497(2) of the Criminal Procedure Code (Cr.P.C.). This provision allows for release when the prosecution's case is not "conclusively established" and necessitates "further inquiry". A scrutiny of the record reveals that the Applicant submitted verifiable documentary evidence confirming his absence from the crime scene at the material time. This evidence was duly corroborated by the Investigating Officer (I.O.) during the course of the investigation, leading to the Applicant's classification in Column No. 2 of the investigation report, which denotes the absence of prima facie direct involvement. Notably, the case presents two contradictory narratives: the version articulated by the Complainant in the First Information Report (FIR) and the findings of the investigating agency, grounded in substantiated documentary proof. In view of the foregoing, the evidentiary contradictions and the provisional nature of the allegations against the Applicant warrant further inquiry as contemplated under Section 497(2) Cr.P.C. This position finds reinforcement in the precedent set by the Honorable Supreme Court in *Zaigham Ashraf v. The State and Others* (2016 SCMR 18), where bail was granted to an accused under analogous circumstances, with the Court recognizing the credibility of a substantiated alibi defense by observing that: *"In the instant case, as discussed above, the plea of alibi of the accused has not been disbelieved by the Prosecution rather it was accepted after due verification from the Prison Authorities and*

Record, and it was for this reason that the present petitioner was subsequently charged for crimes under sections 109 and 120-B, P.P.C. Thus, in this way, his presence from the crime spot at the time of commission of the present crime stands excluded. Keeping in view the two conflicting versions; one given by the complainant in the FIR and the other by the Investigating Agency based on documentary evidence with regard to the plea of alibi, the case of the present petitioner has become certainly one of further inquiry, falling within the ambit of subsection (2) of section 497, Cr.P.C., where grant of bail becomes the right of accused and it is not a grace or concession, to be given by the Court. In the absence of any exceptional ground or reason, denial of bail in such a case would amount to exercise a discretion in a manner, not warranted by law and principle of justice”.

7. Furthermore, the validity of the Medico Legal Certificate (No. 43, dated 14-01-2025), issued by Dr. Khuda Bakhsh Soomro (Senior Medical Officer and Medico Legal Officer at CMC Hospital, Larkana), was legally disputed following a formal complaint filed by Ali Asghar, son of Abdul Rauf Shaikh. To address this challenge, the Director General of Health Services, Sindh (Hyderabad), constituted a Special Medical Board under Order No. DGHSS/G-VI/Inj/MLC-09/-12535/45, dated 06-03-2025, mandating a thorough reassessment of the injuries in question. Upon review, the Board’s findings contradicted the original classifications outlined in the certificate, specifically revising the nature of Injuries No. 1 and 2 as follows:

- **Injury No. 1** was downgraded to *Shajjah-i-Khafifah* (a superficial scar without functional impairment or dismemberment), removing it from the category of *Itlaf-e-Salahiyat-Udw* (permanent disability of a body part).

- **Injury No. 2** was redefined as *Jurrah-Ghayr-Jaifah-Badiah* (a non-penetrating wound not extending through full muscle thickness), which also excludes it from qualifying as *Itlaf-e-Salahiyat-Udzw*.

Although bail proceedings generally avoid extensive evidentiary scrutiny, the Board's conclusions undermine the reliability of the initial medico-legal assessment. This inconsistency challenges the prosecution's portrayal of the injuries' severity and their legal ramifications. As a result, the Applicant's case now aligns with the criteria under Section 497(2) of the Criminal Procedure Code (Cr.P.C.). This position is reinforced by the precedent set in *Mst. Lubna Bibi v. Azhar Javed Abbasi and another (2022 SCMR 946)*, where the Supreme Court of Pakistan ruled that in cases of conflicting medical opinions, greater weight must be accorded to the expertise of a panel of highly qualified specialists over a lone practitioner. Here, the four-member Board's unanimous evaluation conducted collaboratively contrasts with the original assessment by a single junior doctor (Medico Legal Officer). Given the Board's superior collective qualifications and adherence to forensic standards, its findings hold precedence, thereby supporting the Applicant's eligibility for bail under the law.

8. In view of the foregoing, the Applicant is granted post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs. 1,00,000/- (Rupees One Hundred Thousand) along with a personal recognizance (PR) bond in the like amount to the satisfaction of the trial Court. It is, however, expressly clarified that any observations made in this order are tentative in nature and shall not influence the trial Court in deciding the case on its own merits. These are the reasons for short order dated 28.3.2025.

S.Ashfaq/

JUDGE