

**IN THE HIGH COURT OF SINDH AT KARACHI**  
Criminal Bail Application No.1941 of 2024

**Present:**  
**Justice Zafar Ahmed Rajput**  
**Justice Tasneem Sultana**

<b>Applicant</b>	:	Asad Aftab s/o Aftab through Mr. Kabir Ahmed, Advocate
<b>Respondent</b>	:	The State, through Mr. Abrar Ali Khichi, Additional Prosecutor General, Sindh.
<b>Date of hearing</b>	:	03-03-2025
<b>Date of order</b>	:	<u>03-03-2025</u>

**ORDER**

**TASNEEM SULTANA, J.** Through this bail application, applicant/accused, namely, Asad Aftab s/o Aftab seeks post-arrest bail in Crime No.556 of 2022, registered at P.S NKIA, Karachi under Sections 353, 324, 427/34 PPC, read with section 7 of the Anti-Terrorism Act, 1997.

2. Precisely facts of the prosecution case are that, on 08.06.2022, at 0445 hours, complainant SIP Kaleem Shah along with his subordinate staff was on patrolling duty, near Raza Factory, Surjani, Karachi where an encounter took place with two suspicious motorcyclists/accused, namely, Asad Aftab alias Commando (*applicant*) and Osama alias Ayan, who fired on police party with intention to kill them and deter them from discharging their duty. In retaliation, the police also made fire; arrested them, recovered from their possession two unlicensed 30 bore pistols and seized motorcycle bearing Registration No. KOD-0734 under section 550. Hence, this FIR.

3. Learned counsel for applicant has mainly contended that the applicant is innocent and has falsely been implicated in case by the police with ulterior motive; that the applicant is behind the bar since the date of his arrest i.e. 08.06.2022, and the Trial Court has examined till date only three out of ten P.Ws, therefore, on the ground of statutory delay also the applicant is entitled for concession of bail; that section 353, PPC is bailable

while section 324, PPC is not applicable in the circumstances of the case, as no policeman has sustained any injury in the alleged encounter; that no specific role has been assigned to applicant in the FIR; that the guilt of the applicant requires further inquiry entitling him to post-arrest bail.

4. Conversely, the learned Addl. P.G. Sindh has vehemently opposed the instant bail application by maintaining that the applicant is a habitual criminal, who is involved in as many as nine other cases registered at various police stations; that despite appearance of PWs before the Trial Court, their evidence could not be recorded due to absence of applicant's counsel or on account of adjournment sought by his counsel, therefore, the applicant cannot claim bail on statutory ground; that as a result of firing of accused, police mobile also got damaged and prosecution has no ill will or personal grudge to implicate the applicant in this case.

5. Heard, record perused.

6. It reflects from perusal of the record that it has specifically been mentioned in FIR that the applicant and co-accused fired at police party and they were apprehended after an encounter. Police seized unlicensed 30 bore pistol from the possession of the applicant, so also, four empties of 30 bore pistol and three of 9 MM pistol from the crime scene.

7. So far the ground of statutory delay is concerned, learned counsel for the applicant has failed to submit case diaries to establish that the delay in conclusion of trial is not on the part of applicant. On the contrary, it reflects from the perusal of the bail rejecting order of Trial Court that the Trial Court has examined three P.Ws., and despite appearance of P.Ws., the case could not be proceeded either on account of adjournment sought by the applicant's counsel or due to his absence. Even, on 17.07.2024, PW ASI Asim Siddiqui was returned unexamined as the applicant's counsel was adamant and not willing to proceed with the case. However, from progress report dated 30.01.2025, it reflects that out of 10 PWs, evidence of three P.Ws. have been recorded and four P.Ws. have been given up by the prosecution. In the above circumstances, applicant cannot press the ground of statutory delay.

8. During the course of arguments, learned Addl. P.G Sindh has drawn our attention towards the charge sheet and has contended that as per CRO, the applicant is involved in as many as nine FIRs bearing Nos. 155 of 2019, 210 of 2019, 215 of 2019, 254 of 2020, 570 of 2020, 298 of 2021, 447 of 2021, 709 of 2021 and 1042 of 2021, registered at various police stations. Hence, at this stage, the applicant has failed to make out any case of further inquiry and the material available on record *prima facie* connects him with the commission of present crime.

9. In view of above facts and discussion, instant bail application is dismissed, however, the Trial Court is directed to conclude the trial at earliest preferably within three months from the date of receipt of this order and submit compliance report through MIT-II of this Court.

10. Needless to mention here that the observations made hereinabove are tentative in nature and shall not influence the Trial Court while deciding the case of the applicant on merits.

11. These are the reasons of our short order dated 03.03.2025.

JUDGE

JUDGE