

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Application No.1184 of 2025

Date	Orders with Signatures of Judges
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For hearing of main case.

29.05.2025.

Mr. Anwarzaib, Advocate for applicant Abdul Qadir
Mr. Zafar Iqbal Warraich, Advocate alongwith complainant
Ms. Seema Zaidi, APG.

Applicant Abdul Qadir son of Muhammad Ishaq seeks post arrest bail crime No.139/2025 under Sections 147, 148, 365, 324, 34 read with 3/4 Lawyers Protection Act, 2024, registered at PS Boat Basin, Karachi.

Briefly facts of the case are that Peer Derwaish Khawaishgee, a practicing advocate, on 25.2.2025 lodged report that he and his friends were attacked at a plot of land near the SGOC and Railway line in Clifton, Karachi by 20 to 25 arms persons causing injuries to the complainant and his friend Azam Wazir Khan. The complainant further alleged that the culprits snatched away licensed weapons, cash, mobile phones and other valuables besides that abducted their private guards. The complainant identified the attackers as Jabrael, his brother, uncle and other relatives as well as Muhammad Fazl ur Rehman.

Per counsel the applicant is quite innocent and has been roped in this false FIR on account of civil dispute between the parties and one Asif Sattar filed civil Suit No.1405 of 2023 for declaration and permanent injunction and this Court vide order dated 06.01.2025 directed the defendants to maintain status quo and restrained them from taking any coercive measures against him. According to him in this background the FIR in question was registered. He further submits that complainant a practicing advocate registered two FIRs against the applicant while he was in police custody and managed to register four separate FIRs in Nawabshah, however, in the latter case the learned Magistrate has refused to take cognizance and released the accused persons. He further submitted that out of eleven co-accused the learned trial Court granted bail to nine and case of the

applicant is on same footing, therefore, he is also entitled to the released on bail following the rule of consistency.

On the other hand, learned counsel for the complainant opposed the bail application on the ground that the applicant is a hardened and desperate criminal and Afghan National involved in a number of cases of like nature. He has also filed photocopy of FIR No.365/2022 registered at PS Darakhshan, Karachi South and placed on record a letter with a request of the SSP Investigation Karachi South made to the Director, FIA Headquarters, Islamabad, seeking deportation of the applicant. The same are taken on record. However, during hearing he concedes that the complainant has not challenged the bail granting orders of co-accused before the next higher forum. He while praying for dismissal of the bail application has relied upon the cases reported in 2021 SCMR 1157, 2008 SCMR 678, 2005 SCMR1496, 2009 MLD 159 and 2009 YLR 590.

The learned APG also opposed the bail application. However, the I.O. present in Court admits that he has not recorded the statements of Azam, Wazir, Wali Khan and Jibran under Section 161 Cr.P.C.

Heard learned counsel for the applicant, complainant, APG and perused the material available on record. Admittedly, the applicant is not named in the FIR and out of eleven co-accused nine have already been granted bail and case of the applicant is on the same footings. It appears that there is civil dispute between the parties and in this regard Asif Sattar filed a Civil Suit No.1405 of 2023 in which this Court passed interim restraining orders. No identification test of the applicant was conducted and it is a matter of record that the complainant a practicing advocate has lodged two FIRs against the applicant when he was shown in custody of the police and it is alleged in these FIRs that applicant attempted to attack the complainant and tried to escape from the custody. Moreover, as per record other four FIRs were registered by the complainant party in Nawabshah wherein the concerned Magistrate has refused to take cognizance and released the accused persons. However, there is nothing on record that the complainant has challenged either said order of the Magistrate releasing the accused persons or the orders of Court granting bail to nine co-accused. So far as the plea of the learned counsel for the complainant that

applicant is an Afghan National and SSP concerned has recommended his deportation the same cannot be considered by this Court at bail stage and applicant tried to tamper with the evidence while on the contrary complainant party managed six FIRs against applicant when he was already in custody. In my opinion sufficient grounds are available on record making the case of applicant for grant of post arrest bail. Therefore, applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs.100,000.00 (one hundred thousand) and PR bond in the like amount to the satisfaction of the trial Court. The observations made herein above are purely tentative in nature and shall not prejudice the case of the either side at the trial.

Judge