

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No.S-337of 2025

Applicant : Hussain alias Suhrab
s/o Muhammad Khan Leghari
Through Mr. Himath Ali Gadehi, Advocate

Respondent : TheState
Through Mr. Nazeer Ahmed Bhangwar,
DPG for the State.

Date of hearing : 14.07.2025
Date of order : 14.07.2025

ORDER

KHALID HUSSAIN SHAHANI, J.: – Applicant Hussain alias Suhrab seeks post arrest bail in a case bearing crime No.132 of 2025, registered at Police Station K.N. Shah for offences under Sections 402 and 399 PPC. His earlier bail application was dismissed by the learned 1st Additional Sessions Judge, Mehar, vide order dated 21.06.2025.

2. As per contents of the FIR, the allegation against the present applicant is that on 15.06.2025 at about 1315 hours, he, along with co-accused, was allegedly found standing at a public place, armed with weapons, with the purported intention to commit a dacoity. The applicant was apprehended from the spot, and a 30 bore pistol with a magazine containing three live rounds was recovered from his possession, for which he failed to produce a valid license. The remaining co-accused reportedly fled from the scene.

3. Learned counsel for the applicant has contended that the applicant has been falsely implicated due to malafide on the part of police. He argued that the FIR is silent about any overt act constituting actual preparation to commit dacoity or any blockade of road or threat to life or property, as required under Sections 399 and 402 PPC. It is further submitted that although the accused was allegedly armed, no firing, confrontation, or attempt to commit any

specific offence took place. He emphasized that the story appears concocted as no independent witness was associated, and both mashirs are subordinate police officials, in violation of Section 103 Cr.P.C. Lastly, it was argued that the pistol allegedly recovered has been foisted and that the applicant is no longer required for investigation, as challan has already been submitted.

4. Learned Deputy Prosecutor General Mr. Nazeer Ahmed Bhangwar opposed the bail on the ground that the applicant is nominated in the FIR, was arrested from the spot, and an unlicensed firearm was recovered from him.

5. I have heard learned counsel for the parties and perused the record with their assistance. Admittedly, the allegation against the applicant is of mere presence at the place of occurrence with a weapon, allegedly for preparation to commit an offence. However, there is no material brought on record to substantiate the alleged intent to commit dacoity, nor any attending circumstances such as specific targets, planned entry, or overt acts to justify the invocation of Sections 399 and 402 PPC. The FIR does not disclose any firing or threatening conduct on part of the applicant or his co-accused. The prosecution's assertion that the applicant had gathered with intent to commit dacoity appears speculative and lacks evidentiary support at this stage.

6. It is also an admitted position that both mashirs are police personnel and no effort was made to associate private witnesses, despite the alleged incident occurring during daytime and in a public area, thereby violating the mandatory provisions of Section 103 Cr.P.C. The alleged recovery of pistol, in these circumstances, becomes doubtful and would require deeper appreciation of evidence at trial. Furthermore, the offence under Section 399 PPC is

punishable with a maximum sentence of seven years and, in the peculiar facts of the case, the applicability of prohibitory clause of Section 497 Cr.P.C. becomes arguable. The case thus falls within the scope of “further inquiry” as contemplated under Section 497(2) Cr.P.C. Accordingly, the applicant Hussain alias Suhrab is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a personal bond in the like amount to the satisfaction of the learned trial Court.

7. Needless to mention, the observations made herein are tentative in nature and shall not prejudice the case of either party at the time of trial.

JUDGE

Asghar Altaf/P.A