

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Criminal Bail Application No. S- 475 of 2025.

Applicants : 1). Achar,
2). Mashooque Ali, both sons of Shahnawaz
through Mr. Habibullah G. Ghouri, Advocate.

The State : Through, Mr. Nazir Ahmed Bhangwar, Deputy
Prosecutor General, Sindh.

Complainant : Gulsher son of Masoo Khan Shaikh, through
Mr. Jam Zuhaib Ahmed, Advocate.

Date of hearing : 23.10.2025.

Date of Order : 23.10.2025.

ORDER

Ali Haider 'Ada', J:- Through this application, the applicants seek post-arrest bail in Crime No.95 of 2025 registered at Police Station, Ratodero, for offences punishable under Sections 452, 324, 448, 511, 337-H(ii), F(ii), F(iii), 148, and 149, PPC. Prior to this, the applicants approached the learned Sessions Judge, Larkana, who entrusted the matter to the learned Additional Sessions Judge, Ratodero, where their bail application was dismissed vide order dated 16.08.2025.

2. The prosecution case, in brief, is that the applicants, along with their co-accused, being duly armed with pistols, K.Ks, and repeaters, allegedly caused firearm injuries to the complainant party. As a result, Mst. Zameeran, Ameen, and Muhammad Yousif sustained injuries. Mst. Zameeran received an injury on her left wrist joint, Ameen suffered an injury on his left foot, while Muhammad Yousif sustained an injury on his chest. The incident allegedly took place on 24.05.2025 at about 7:30 p.m., whereas the F.I.R. was lodged on 25.05.2025 at about 10:30 p.m. The applicants were arrested on 02.07.2025, and during interrogation, a pistol was allegedly recovered from applicant Mashooq.

3. Learned counsel for the applicants contends that enmity is a double-edged weapon, which can be used both ways, and in the present case, the existence of enmity itself makes the prosecution version doubtful. He further submits that there are material contradictions

between the medical and ocular accounts, as the injury attributed to Mst. Zameeran was initially opined by the medical officer to have been caused by a hard and blunt substance, not a firearm. He contends that none of the injuries fall within the prohibitory clause of Section 497, Cr.P.C, and the applicability of Section 324, PPC, can only be determined after trial. Learned counsel further argues that the alleged recovery of weapon from applicant Mashooq is highly doubtful as no independent witness has been cited to corroborate it. He also points out an unexplained delay of about 27 hours in lodging the F.I.R. and placed reliance upon the cases reported as 2023 SCMR 1243, 2014 P.Cr.L.J 261, and PLD 2017 SC 733.

4. Conversely, learned counsel for the complainant contends that there is no major discrepancy between the medical and ocular accounts. He submits that one of the injured, Ameen, is a minor aged about 7-8 years, and the incident occurred due to the illegal possession dispute created by the accused. He maintains that the applicants are specifically nominated with active roles, and therefore, they are not entitled to the concession of bail.

5. Learned Deputy Prosecutor General adopts the arguments of the complainant's counsel and adds that after the final medical opinion, the doctor confirmed that the injury sustained by Mst. Zameeran was indeed caused by a firearm. He further submits that the active role of the applicants, coupled with the recovery of weapon, constitutes corroborative evidence, rendering them ineligible for the grant of bail.

6. Heard the learned counsel for the parties and perused the material available on record.

7. As per the prosecution case, there are three injured persons, including Mst. Zameeran, who sustained an injury on her left wrist joint. As per the provisional medical certificate, the lady doctor initially opined that the said injury was caused by a hard and blunt substance; however, in her final opinion, she changed her version and stated that the injury was caused by a firearm. At this tentative stage, two different views emerge regarding the nature of the injury. Such contradiction makes the case one of further inquiry within the meaning of Section 497(2), Cr.P.C. The specific role assigned to applicant Mashooq is that he allegedly caused a firearm injury to Mst. Zameeran. It is well settled that even at the

bail stage, the principle of benefit of doubt can be extended to the accused; therefore, the case of the applicant calls for further probe. Reliance is placed upon the case of *Awal Khan and 7 others vs The State 2017 SCMR 538* and *Syed Khalid Hussain shah vs The State 2014 SCMR 12*.

8. On the other hand, the allegation against applicant Achar is that he made indiscriminate firing, as a result of which a shot hit the foot of a child; however, none of the other persons sustained any firearm injury from such alleged indiscriminate firing. The injury in question falls under Section 337-F (iii), P.P.C., which does not attract the prohibitory clause of Section 497, Cr.P.C. Support is drawn from the case of *Muhammad Tanveer vs. The State and another PLD 2017 SC 733*.

9. Furthermore, the FIR was registered on 25.05.2025 at about 10:30 p.m., whereas, as per the record, on the same day of occurrence i.e., 24.05.2025 at about 9:30 p.m., the complainant party had approached the police and obtained medical letters for treatment, as reflected in the entry maintained by H.C. Yar Muhammad Veesar. However, the medical certificates show that on 24.05.2025, the complainant along with the injured persons had appeared before the medical officer at about 8:40 p.m. along with the said police letters. This circumstance alone creates a serious doubt, as it is inexplicable how the complainant party could have approached the medical officer at 8:40 p.m. with letters that were allegedly issued at 9:30 p.m. Furthermore, no version of the incident was disclosed to the police at that stage, and the FIR came to be lodged after an unexplained delay of about 27 hours, which prima facie gives rise to the possibility of false implication of the applicants. Reliance is placed upon the cases of *Eijaz Ahmed Chaudhary vs The State 2025 SCMR 1596*, *Mazhar Ali vs. The State 2025 SCMR 318* and *Jamaluddin and another vs. The State 2023 SCMR 1243*.

10. So far as the recovery of weapon is concerned, according to the prosecution, applicant Mashooq was arrested on 02.07.2025 and on the same day, at about 1630 hours, during interrogation, he allegedly produced the crime weapon, i.e., a 30-bore pistol, voluntarily. However, the record is completely silent as to any confessional statement made by the applicant during interrogation leading to such recovery, which renders the alleged recovery doubtful at this stage. Support is drawn from

the case of *Zafar Ali Abbasi and another vs. Zafar Ali Abbasi and others* 2024 SCMR 1773, as it was held that:

5. In order to bring the case within the ambit of Article 40 of the Qanun-e-Shahadat Order, 1984, the prosecution must prove that a person accused of any offence, in custody of police officer, has conveyed an information or made a statement to the police, leading to discover of new fact concerning the offence, which is not in the prior knowledge of the police. Such information or statement should be in writing and in presence of witnesses. In absence of information or statement from a person, accused of an offence in custody of police officer, discovery of fact alone, would not bring the case of the prosecution under the said Article."

11. The applicants have already been arrested and the investigation stands completed; they are no longer required for further investigation. At the bail stage, the Court is not required to indulge in a deeper appraisal or evaluation of the material available on record; rather, it is to assess the same only tentatively, to determine whether a prima facie case for bail is made out.

12. In view of the foregoing circumstances, the applicants Achar and Mashooque are admitted to post-arrest bail, in Crime No. 95 of 2025 registered at Police Station Ratodero, subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) each and a P.R. bond in the like amount to the satisfaction of the learned trial Court. However, the observations made hereinabove are tentative in nature and shall not prejudice the case of either party at the trial.

JUDGE