

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-627 of 2025

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Applicant : Kamran @ Wali Muhammad @ Waloo  
Through Mr. Javed Ali Dhilloo, Advocate

The State : Through Mr. Shafi Muhammad Mahar, DPG

Date of hearing : 04.09.2025  
Date of order : 04.09.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** –Both the listed bail applications are being disposed of by this common order since they emanate from the same occurrence. One arises out of crime No.202 of 2025 registered at Police Station Moro under sections 324, 353, 401 and 398 PPC, whereas the other relates to crime No.203 of 2025 under the Arms Ordinance. As both matters are interconnected, they are being determined together.

2. The prosecution's version is that on 27.06.2025, ASI Abdul Majeed Dahar along with his subordinates was on routine patrolling duty when he received spy information about four armed men allegedly assembled near a culvert at Daulatpur with intention to commit a cognizable offence. It is alleged that upon arrival at 01:30 a.m., the police party had an encounter with the suspects, wherefrom the present applicant received firearm injury ostensibly at the hands of his own companions, was apprehended on the spot with a Kalashnikov in his possession, whereas the remaining persons succeeded in escaping.

3. Learned counsel for the applicant submitted that the entire story is cooked up at the behest of enemies, asserting that no such encounter ever took place in the manner alleged. He highlighted that although a prolonged

exchange of fire is claimed, surprisingly no member of the police party sustained even a scratch, while only the present applicant was shown injured, which fact alone makes the event highly doubtful. Learned counsel further argued that section 324 PPC has been wrongly attracted since there is no allegation that any police official received an injury. He emphasized the applicability of section 497(2) Cr.P.C. by contending that the case, under the given circumstances, calls for further inquiry. He also pressed into service the mandatory provisions of section 103 Cr.P.C. regarding association of respectable mashirs in support of police recovery proceedings, pointing out that no independent witness has been associated. According to him, this non-compliance renders the case extremely weak at this stage. In support of his submissions he placed reliance upon the authoritative pronouncements contained in Tariq Bashir and others v. The State (PLD 1995 SC 34) and Muhammad Tanveer v. The State and another (PLD 2017 SC 733), wherein it has been laid down that offences not falling within the prohibitory clause of section 497 Cr.P.C., coupled with doubtful circumstances, warrant the grant of bail.

4. Conversely, learned Deputy Prosecutor General opposed the bail plea contending that the applicant was apprehended red-handed, injured during exchange of fire, and was found in possession of an illicit weapon, which suffices to deny him the concession of bail.

5. After hearing both sides and perusing the record, it appears that the offences alleged under sections 324, 353, 401 and 398 PPC do not attract the prohibitory clause of section 497 Cr.P.C. as the maximum sentence for the alleged act under section 324 PPC stands at ten years, bringing the case within the principle enunciated by the Hon'ble Supreme Court in Tariq Bashir's case (supra). Moreover, the manner in which the encounter is described introduces

several doubts, as only the applicant sustained injury while every member of the law enforcing agency conveniently remained unharmed, raising serious suspicion about the genuineness of the event. Likewise, the claim that the present applicant was injured by the firing of his own companions is intrinsically unnatural and improbable. The alleged incident is said to have occurred late at night in darkness, making identification of accused persons highly questionable, while the absence of private witnesses in alleged recovery, despite it being obligatory under section 103 Cr.P.C., casts further cloud over truthfulness of the prosecution case. The Supreme Court has consistently held that recoveries effected in absence of independent public witnesses become suspect if resting solely on police testimony.

6. It is also a settled proposition of law that every accused is deemed innocent until proven guilty in accordance with law and due process. This principle takes root from Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973, which guarantees to every person the right to a fair trial and due process. Denial of bail in circumstances which call for further inquiry would effectively prejudice such constitutional guarantee. The Supreme Court in *Ayub Masih v. The State* (PLD 2002 SC 1048) emphasized that the benefit of doubt should always go to the accused, even at the bail stage. In the present case, where multiple reasonable doubts surround the incident, continued incarceration of the applicant would amount to punishing him prior to conviction and offend against the constitutional presumption of innocence.

7. The record is also silent with regard to any previous conviction or criminal antecedents of the applicant. He is not shown to be a hardened or habitual offender whose liberty would endanger public safety. It is by now a recognized principle that bail is a rule and jail is an exception, particularly in cases not falling within the prohibitory clause and where the case requires

further inquiry under section 497(2) Cr.P.C. The ultimate question of the veracity of the prosecution's version can only be resolved after evidence is recorded at trial. At this stage, however, the material available does not justify continued detention.

8. Given above, prima facie applicant has succeeded to make out case for further inquiry as envisaged under section 497(2) Cr.P.C. Accordingly, both bail applications are allowed. The applicant Kamran alias Wali Muhammad alias Waloo is consequently admitted to post-arrest bail in Crime No.202 of 2025 under sections 324, 353, 401 and 398 PPC, and in Crime No.203 of 2025 under the Arms Ordinance, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and a P.R. bond in the like amount separately in each case to the satisfaction of the trial court. It is, however, clearly observed that the findings given in this order are tentative and shall not prejudice the fate of the trial, where the matter will be concluded on the basis of evidence.

Office is directed to place a signed copy of this order in the captioned connected matter.

**J U D G E**