

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

1st Cr. Bail Appln. No.S-479 of 2025.

Applicant : Farman Ali Machhi,
Through M/s Imdad Ali Tunio, Mujahid Ali Tunio
and Fasiha Noor Soomro, Advocates.

The State : through Mr. Ali Anwar Kandhro, Additional
Prosecutor General, Sindh.

Date of hearing : 22.09.2025.

Date of decision : 22.09.2025.

ORDER.

Muhammad Saleem Jessar, J.- Through this application, applicant/accused Farman Ali son of Muhammad Qasim Machhi seeks post arrest bail in Crime No.43/2025, registered with PS Guddu, District Kashmore at Kandhkot, for offence under Section 23(1)(a) of Sindh Arms Act of 2013. The applicant filed bail plea before the Court below, which by way of order dated 21.08.2025 has been dismissed; hence, this application. The case has been challaned, which is now pending for trial before the court of Additional Sessions Judge, Kashmore (trial Court).

2. According to the case of prosecution, on 03.8.2025 the applicant Abid Ali was arrested during snap checking at Khosa Bridge on public road leading towards Guddu by a police party of PS Guddu lead by complainant ASI Illahi Bux and was found in possession of an unlicensed Repeater of 12-bore with seven live cartridges, hence he was booked in this case on behalf of State.

3. Learned advocate for the applicant has mainly argued that the applicant/accused is innocent and has falsely been implicated in this case by the police and the weapon has been foisted upon him. He further contended that both the mashirs of recovery are police officials and subordinates to the complainant and no any private person was picked to witness the alleged

recovery, though the alleged place of recovery is a busy area. Learned Counsel contended that the offence does not fall within prohibitory clause of Section 497, Cr.PC and the case against the applicant requires further enquiry. Lastly, he contended that the case has been challaned and the applicant/accused is no more required for any further investigation.

4. Learned Additional Prosecutor General, on the other hand, opposed the grant of bail, on the ground that the applicant was arrested by the police and an unlicensed repeater gun has been recovered from him, therefore, he is not entitled to concession of bail.

5. It is an admitted position that no private person has been cited as witness to the alleged recovery. The case has been challaned, therefore, the applicant is no more required for investigation purpose. All the PWs are from police department; as such, there is no apprehension of tampering with the prosecution evidence. Section 23(1)(a) of the Sindh Arms Act, 2013 provides punishment of unlicensed arm may extend to fourteen years and with fine; however, the law is settled in this regard that the quantum of punishment has to be determined by the trial Court that whether the accused would be liable to the maximum punishment provided for the offence or whether the punishment in case of proof of the guilt after trial in the circumstances would fall under the prohibitory clause are the question requiring further probe, as the maximum punishment provided under section 23 of Sindh Arms Act, 2013 is 14 years, discretion is left with the Court trying the case by the legislature to decide the fate of the case according to the circumstances of the case commensurate with the nature of the case. No record has been placed to show that the applicant is habitual or previous convict; hence, all these facts make the case against the applicant as one of further enquiry. In the circumstances the offence, in my humble view, does not fall within prohibitory clause of Section 497, Cr.P.C.

6. Keeping in view the above facts and circumstances, the applicant/accused has been able to make out a case for grant of bail. Therefore, instant bail application is allowed and the applicant is directed to be released on bail on his furnishing solvent surety in the sum of Rs.50,000/- (rupees fifty thousand) and P.R. Bond in the like amount to the satisfaction of trial Court.

JUDGE

Qazi Tahir PA/*