IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-1096 of 2025

Applicant	:	Nadir Shah s/o Yousif Shah, Syed Baloch
		Through M/s J.K Jarwar & Sarfaraz Magsi, Advocates
Complainant	:	Khuda Bux s/o Gahno Khan, Bugti
		Through Mr. Mir Khan Chachar, Advocate
The State	:	*Through* Mr. Shafi Muhammad Mahar, DPG
Date of hearing	:	05.12.2025
Date of order	:	05.12.2025

O R D E R

KHALID HUSSAIN SHAHANI, J.– The present criminal bail application has been filed by applicant Nadir Shah, seeking post-arrest bail in crime No.77/2025, for offences under Sections 392, 397, and 34 PP, registered at Police Station Kandhra, District Sukkur. Notably, the applicant's bail plea was previously rejected by the learned IVth Additional Sessions Judge, Sukkur, by order dated 08.10.2025.

2.   The prosecution's case arises from an FIR lodged by complainant Khuda Bux Bugti on 28.05.2025. As per the FIR, on 25.05.2025 at about 1:00 pm, complainant Khuda Bux was traveling towards Shadi Shaheed along with his relative Salamuddin and friend Mando on a motorcycle. Near Nahoo Takar, they encountered four unidentified armed men with open faces who signaled them to stop. Upon stopping, the assailants attempted to forcibly snatch the motorcycle. The complainant resisted, leading to the accused striking the complainant with a pistol butt on the forehead and beneath his left eye, causing injury. The assailants then robbed the complainant of his mobile phone and motorcycle before fleeing towards Khairpur. The complainant thereafter proceeded to the police station, obtained documents for medical treatment, sought medical attention, and subsequently lodged the FIR. During investigation, and notably on 23.08.2025, about three months after the incident the complainant recorded a further statement under Section 162 Cr.P.C, wherein he named the applicant Nadir Shah and co-accused Dilber @ Dillu as responsible for the offence.

3.   Counsel for the applicant strongly maintains that the applicant is innocent and has been falsely implicated. Emphasis is placed on the significant delay of about three days before the initial FIR was lodged, bringing into question the promptness and reliability of the prosecution's narrative. Furthermore, the applicant's name does not appear in the original FIR, but only emerges after an extended interval of nearly three months, in a statement subsequent to the initial report, which raises serious concerns about the veracity and spontaneity of the implicating evidence. Counsel highlights the absence of any incriminating material or recovery of stolen goods from the applicant's possession. The case has already been challaned, and the applicant is no longer needed for further investigation. Considering the above and the fact that the offences attract the benefit of further inquiry under Section 497(2) Cr.P.C, counsel argued that the applicant is entitled to the concession of bail.

4.   In rebuttal, the learned Deputy Prosecutor General duly assisted by Mr. Chzchar, learned counsel for the complainant contended that the applicant was arrested pursuant to the complainant's positive identification and that an unlicensed 30 bore T.T pistol with magazine and four live bullets was recovered from the applicant at the time of arrest. This, according to the prosecution, is strong and direct evidence linking the applicant to the commission of the offence of armed robbery, thereby disqualifying him from being admitted to bail. However, learned DPG relunctantly concedes, no identification parade of applicant was held during coarse of investigation.

5.   Upon hearing the learned counsel for the parties and careful examination of the record, several material points stand out. Primarily, the absence of the applicant's name in the FIR is conspicuous. The FIR is the first formal document recording the complaint and is expected to contain all immediate particulars as known to the complainant. The insertion of the applicant's name only after a three months delay during a subsequent statement under Section 162 Cr.P.C. invites suspicion about the genuineness and reliability of such an implicating statement. This delayed

disclosure may well be the result of afterthought or external influences rather than a spontaneous and truthful account, which undermines the prosecution claim at this stage.

6.   As to the alleged recovery of the pistol and ammunition, the record examined does not substantiate any seizure memorandum or independent confirmation affirming such recovery at the time of arrest of the applicant. When specifically questioned, neither the learned counsel for the complainant nor the Deputy Prosecutor General could point to tangible documentary or material evidence formally linking the applicant to the recovered weapon or stolen property.

7.   The applicant's clean criminal record and absence of any indication of habitual offending or dangerous proclivity are significant considerations favoring bail. Bail is a rule and jail is an exception, particularly in cases where the facts are yet to be conclusively developed at trial.

8.   Furthermore, the case has been challaned, and the investigation is complete, indicating that prolonged detention serves no productive investigative purpose. The credibility and strength of the prosecution case remain matters to be determined by the trial court upon recording comprehensive evidence and hearing witnesses, and cannot be conclusively assessed at this stage of the proceedings.

9.   In view of these factors, and recognizing the safeguard provision under Section 497(2) Cr.P.C, this Court is persuaded that the applicant's further detention is unwarranted and that he is entitled to the benefit of bail. Applicant Nadir Shah is therefore admitted to bail on furnishing a solvent surety in the sum of Rs. 100,000/- (One Hundred Thousand Rupees) along with a personal bond for the like amount, all to the satisfaction of the learned trial Court.

10.   It is expressly clarified that the observations made herein are tentative and shall not influence or prejudice the trial court's final determination on the merits after a full trial.

J U D G E