

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

Crl. Bail Application No.S-277 of 2025

Applicant: Kamran S/o Ghulam Mustafa,
Through Mr. Muhammad Arif, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, Deputy P.G.

Complainant: Asad Ali S/o Ghulam Hussain.

Crl. Bail Application No.S-278 of 2025

Applicant: Kamran S/o Ghulam Mustafa,
Through Mr. Muhammad Arif, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, Deputy P.G.

Crl. Bail Application No.S-291 of 2025

Applicants: 1. Abdul Ghaffar S/o Fateh Khan,
2. Altaf S/o Muhammad Raheem,
Through Mr. Dileep Kumar, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, Deputy P.G.

Complainant: Asad Ali S/o Ghulam Hussain.

Crl. Bail Application No.S-292 of 2025

Applicants: 1. Abdul Rehman S/o Ghulam Mustafa,
2. Arsalan S/o Ghulam Mustafa,
Through Mr. Muhammad Arif, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, Deputy P.G.

Crl. Bail Application No.S-288 of 2025

Applicant: Mashooque S/o Muhammad Siddique,
Through Mr. Muhammad Arif, Advocate.

Respondent: The State.
Through Mr. Neel Parkash, Deputy P.G.

Date of hearing: 30.10.2025.

Date of Order: 30.10.2025.

ORDER

Shamsuddin Abbasi, J-: By this single order, I intend to dispose of aforementioned bail applications, whereby the applicants/accused, seek pre-arrest bail in Crime No.98 of 2025 for offence punishable under sections 413 and 34 P.P.C of PS Jhudo and Crime No.116 of 2025 for offence under sections 379 and 34 P.P.C of PS Digri whereas applicant Mashooque seeks post arrest bail in Cr. No.98/2025 for offence under section 413 and 34 P.P.C of PS Jhudo, after their bail plea has been declined by learned trial court vide order dated 08.10.2025, 11.10.2025 and 15.10.2025 respectively.

2. The brief facts of FIR No.116 of 2025 are that on 03-10-2025, the complainant, accompanied by HC Muhammad Faheem Rind and Railway Keyman Ali Haider, departed from Digri to inspect the railway line. During the inspection, they reached Village Jalal Abring around 1700 hours, where they allegedly observed and recognized Abdul Ghaffar, Altaf, Foji Kamran Gondal, and two unidentified individuals engaged in stealing railway iron lines (patri) and loading them into a Shehzor vehicle. Upon noticing the complainant's presence, the accused reportedly fled the scene in the vehicle, leaving behind some of the railway material.

3. The brief facts of FIR No.98 of 2025 are that on 02-10-2025, the complainant, accompanied by HC-1098 Ghulam Shabbir and PC Shahid Iqbal, departed from CIA Mirpurkhas at about 1530 hours in a private vehicle with official arms, as recorded in Roznamcha Entry No. 07. During patrolling in various parts of the district, at approximately 2000 hours, the team reached Jhudo Tando Jan Muhammad Road, Tedi Mori, near Puran Mori Niaz Kapri Link Road, where they observed, under the light of their vehicle's headlights, a Mazda 3500 (Registration No. TAB 463) and a loader rickshaw. Five unknown individuals were seen loading pieces of government railway iron (patri) from the rickshaw into the Mazda vehicle. The complainant immediately informed PS Jhudo through mobile contact, upon which HC-1230 Shahnawaz (HOT), PC-1480 Abdul Farooque, PC-1115 Nadeem Khan, and driver PC-635 Abdul Ghaffar, in government vehicle SPF-870, promptly reached the location. In a joint operation with the Jhudo police, and using the

light from the vehicles, the officers identified the accused persons as Kamran alias Foji, Abdul Rehman, and Arsalan, all sons of Ghulam Mustafa alias Moosa. Upon noticing the police, the said three accused fled the scene under the cover of darkness and surrounding bushes, while two other accused Asghar Ali and Mashooq Rustamani were apprehended on the spot. A black motorcycle was found parked nearby, and eleven pieces of railway iron (patri) were discovered loaded in the rickshaw. No illegal or harmful items were recovered from the Mazda vehicle. During interrogation, Asghar Arain disclosed that he was the driver of the Mazda and had been instructed by Kamran alias Foji to collect railway iron from a loader rickshaw parked at Tedi Mori. The co-accused Mashooq Rustamani stated that Kamran alias Foji had placed the railway patri in his rickshaw and informed him that a Mazda vehicle would later arrive to transport it. The police recovered three vehicles from the scene Mazda 3500 (Blue Colour), Loader Rickshaw (Red Body), and Motorcycle (Black Colour, China make, Engine No. RM-230033, Chassis No. R705641482). A personal search of Mashooq led to the recovery of five Rs.100/- notes, while Rs.500/- was recovered from Asghar Arain. As no independent witnesses were available, HC-1098 Ghulam Shabbir (CIA) and HC-1230 Shahnawaz (PS Jhudo) acted as mashirs, prepared the mashirnama, and brought both accused along with the property to the police station, where the complainant registered the FIR.

4. Learned counsel for the applicants submit that applicants are innocent and falsely implicated in this case due to malafide intention and ulterior motives; that no any incriminating article has been recovered from their possession; that bail cannot be declined mere registration of the FIRs. He relied upon the case law viz: **1997 SCMR 412**. Lastly, he prayed for confirmation of the bail.

5. On the other hand, learned D.P.G for the State has opposed for grant of bail to the applicants on the ground that the alleged offence is heinous one whereby they have committed theft of railway track and they were transporting the same when police reached at the place of recovery but they succeeded to escape from the place of incident. He further submits that there is C.R.O of the applicant

Kamran who is involved in 09 cases. I.O is present in court and submits that applicants have not joined the investigation.

6. Heard learned counsel for the applicants, learned D.P.G for the State and perused the record.

7. The allegations against the applicants are that they had cut down the railway track by removing it from the railway line, which could cause a serious incident and cannot be ignored. The police party identified them when they were allegedly transporting the railway track, but they succeeded in escaping from the place of recovery and a huge quantity of track was recovered from the scene of offence. The record reflects that applicant Kamran is involved in 09 like-nature cases as well as other accused. Moreover, I.O present in court submits that the applicants have not joined the investigation, which is a clear violation for grant of interim pre-arrest bail. Learned D.P.G requests that their custody is required for further investigation.

8. At the stage of considering bail, only a tentative assessment of the available material is to be made. The record reflects sufficient material connecting the applicants/accused with the commission of the offence, and no mala fide or ulterior motive has been attributed to the complainant by the applicants. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan **2019 SCMR 1129** wherein the Hon'ble Supreme Court of Pakistan has held as under:

"Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law."

9. In view of the above, the applicants have failed to make out a case for the confirmation of pre-arrest bail within the contemplation of subsection (2) of Section 497, Cr.P.C. Consequently, the instant bail applications filed by the applicants/accused stand **dismissed**. I.O is present in court and is allowed to take them into custody for investigation and produce them before the concerned Magistrate in accordance with law. The interim pre-arrest bail already granted to the applicants vide order dated **15.10.2025, 21.10.2025** and **22.10.2025** are hereby **recalled**. The post-arrest bail of applicant Mashooque is also **dismissed** on the ground that this court has already given direction to conclude the trial preferably within 03 months in bail order passed in a connected post-arrest bail application.

10. The observations made in this decision are of a tentative nature and will not influence the merits of the case.

JUDGE

Faisal

The allegations against the applicants are that they had cut down the railway track by removing from railway line which could cause serious incident and cannot be ignored this aspect of the case. The police party have identified them when they were transporting the railway track but they succeeded to escape from the place of recovery and huge quantity of track were recovered from the scene of offence. Record reflects that applicant Kamran is involved in 09 like nature cases as well as other accused. Moreover, I.O present in court submits that the applicants have not joined the investigation which is clear violation for grant of interim pre-arrest bail. Learned D.P.G has requests that their custody is required for further investigation.

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