

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-1109 of 2025

Applicant : Asadullah Ameen s/o Asghar Ali Nandhu, Bhutto
Through Mr. Qurban Ali Malano, Advocate

The State : Through Mr. Mansoor Ahmed Shaikh, DPG

Date of hearing : 29.12.2025
Date of order : 29.12.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Applicant Asadullah Ameen seeks post-arrest bail in a case bearing crime No.79/2024, for offences under Sections 302, 324, 148, 149, 109, 427, 337-H(ii) PPC, registered at Police Station Wasti Jeewan Shah, District Ghotki,. Previously, the bail application of the accused was declined by the learned Additional Sessions Judge, Ubauro, vide order dated 20.09.2025

2. As per FIR lodged on 16.10.2024 by complainant Mumtaz Shar, on 14.10.2024, he and several others (Ali Muhammad Shar, Suhrab Shar, Muhammad Nawaz, and Sardar Shahyar Khan Shar, a former MPA) were travelling on a katcha path near village Allah Bux Ghunio on the Bhaya side to meet members of the Shar community and voters. About 20 armed men suddenly emerged from a sugarcane field and stopped their vehicle, identifying them as Attaullah alias Atto with K.K, Ranjan with K.K, Khalid with G-3 rifle, Ali Gohar with rifle, Akbar with K.K, Siddique with rifle, Asghar with K.K, Asadullah (applicant) with repeater, Allah Wasayo with repeater, Khambhro with repeater, Raheem Bux with K.K, Shah Nawaz with K.K, Shoukat with G-3 rifle, Abdul Sattar with G-3 rifle, Khadim with K.K, Ibrahim with K.K, Hameed with K.K, and three unknown persons with K.Ks. The assailants opened fire directly at the occupants with the intention to spread terror; Khalid allegedly fired at Ali Muhammad, causing his death, while Asghar Ali and Asadullah Bhutto allegedly fired at Suhrab Shar, injuring his right arm and head, respectively. Despite heavy gunfire, Sardar

Shahyar Khan Shar managed to drive the vehicle out of the firing range, saving Mumtaz, Muhammad Nawaz, and himself; Ali Muhammad was found dead and Suhrab Shar severely injured, with the vehicle riddled with bullet marks. The dead body and injured were shifted to Ubauro Taluka Hospital. Consequent upon; case was registered inter alia on the above facts.

3. Mr. Malano, learned counsel for the applicant mainly argued that Asadullah Ameen is innocent and has been falsely implicated with malafide intention and ulterior motive. He pointed out that there is an unexplained delay of about two days in lodging the FIR, which, in his submission, raises serious suspicion that the accused was deliberately named after consultation and deliberation, making false implication a real possibility. He added that although the applicant is alleged to have fired at Suhrab Shar on the head with a repeater, the injury has been medically declared as *Shajjah-i-Khafifah* punishable under Section 337-A(i) PPC, which is a simple hurt and not a serious or grievous injury. He emphasized that this injury is bailable and non-cognizable under the Second Schedule of the Cr.P.C, which militates against the idea that the applicant poses a grave threat to society. Another key argument was that several co-accused have already been granted bails in the same case. Accused Ahmed Khan has been granted pre-arrest bail, while accused Shahnawaz, Abdul Sattar, and Raheem Bux have been granted post-arrest bail vide order dated 30.04.2025 and accused Ibrahim Seelro was also granted post arrest bail vide order dated 02.08.2025 by the trial court. Counsel invoked the principle of consistency and parity of treatment, urging that if those co-accused, whose roles are not materially different, have been released on bail, the applicant, whose case is on an equally or better footing, should not be denied the same relief. It is also emphasized that the applicant was arrested on 09.12.2024 and no recovery of incriminating weapon has been effected from him, which casts doubt on the strength of the prosecution's case against him. Finally, he submitted that the complainant and the witnesses in

this case are themselves absconding in three criminal cases including a case Crime No.03/2025, for offences under Sections 302, 324, 147, 148, 427 PPC, registered at Police Station Khenjo, which further undermines the credibility of the prosecution and shows that the case requires further inquiry rather than continued detention.

4. Mr. Mansoor Ahmed Shaikh, learned DPG for the State vehemently opposed the grant of bail, arguing that the applicant has been specifically named in the FIR with a distinct role (firing at Suhrab Shar with a repeater) and is thus directly connected with the commission of the offence. He stressed that the principal charge under Section 302 PPC is a capital offence, which normally calls for strict scrutiny before granting bail, especially in a case involving multiple armed persons and a fatal shooting. The DPG contended that the cases of the co-accused who have already been granted bail are distinguishable from that of the present applicant, as their roles, circumstances, and evidence against them may be different, and therefore the rule of consistency does not automatically entitle the applicant to bail. He urged the Court to uphold the earlier order of the Additional Sessions Judge, Ubauro, which had declined the applicant's bail application on 20.09.2025, and to keep the applicant in custody to ensure the fair trial of a serious offence. However, reluctantly concedes that complainant and eye witnesses are absconding in three criminal cases and the injury caused to the injured Suhrab attributed to the applicant is simple in nature and bailable.

5. The Court, after hearing both sides, noted that there is an admitted and unexplained delay of about two days in lodging the FIR, which, in the absence of a plausible explanation, raises a legitimate doubt about the possibility of false implication after consultation and deliberation. This delay, standing alone, may not be enough to grant bail, but when combined with other circumstances, it becomes a relevant factor in assessing whether the prosecution case is *prima facie* strong. Besides, it has been observed that the

injury attributed to the applicant, firing at Suhrab Shar on the head with a repeater is medically classified as *Shajjah-i-Khafifah* punishable under Section 337-A(i) PPC, which is a simple hurt and not a grievous or life-threatening injury. This fact, in the Court's view, reduces the gravity of the applicant's alleged role in the incident and supports the argument that the case against him is not of the highest degree of seriousness.

6. The Court also took into account that several co-accused in the same case (Ahmed Khan, Ibrahim, Shahnawaz, Abdul Sattar, and Raheem Bux) have already been granted pre-arrest or post-arrest bail by the trial court. The Court held that the applicant's case is at least on the same footing, if not better, than those co-accused, and therefore, on the principle of consistency and parity of treatment, he cannot be denied similar relief.

7. Further, the Court noted that during course of investigation no recovery of weapon has been effected from the applicant, which is a significant lacuna in the prosecution's case. Additionally, the fact that the complainant and the witnesses in this case are absconding in multiple cases including a murder case bearing Crime No.03/2025, for offence under Section u/s 302 PPC, P.S Khenjo, Crime No.35/2025, for offence u/s 324 PPC, P.S Wasti Jeewan Shah and Crime No.100/2025, u/s 302 PPC, P.S Wasti Jeewan Shah, which casts serious doubt on the overall credibility and reliability of the prosecution's stance.

8. Cumulatively, the Court concluded that these factors, the unexplained delay in FIR, the simple nature of the injury attributed to the applicant, the bail granted to co-accused, the long custody without recovery of weapons, and the absconding status of the complainant and witnesses render the prosecution case doubtful at this tentative stage. Therefore, *prima facie* applicant has succeeded in making out case for further inquiry in terms of Section 497(2) Cr.P.C., rather than continued incarceration. Accordingly, the applicant Asadullah Ameen Bhutto is admitted to bail, subject to furnish a

solvent surety in the sum of Rs.300,000/- (Rupees Three Hundred Thousand) and a personal recognizance bond of the like amount to the satisfaction of the learned trial court.

9. It is made clear that the observations and findings recorded in the order are purely tentative and are meant only for the purpose of deciding the bail application; they shall not prejudice the merits of the case at the trial stage, where the prosecution will have full opportunity to prove its case beyond reasonable doubt.

J U D G E