

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr.Bail Appln:No.S-565 of 2025
Cr.Bail Appln:No.S-676 of 2025
Cr.Bail Appln:No.S-716 of 2025

Applicants: Zahid son of Muhammad Paryal, 2) Mukhtiar Ali son of Nazar Ali and 3) Muhammad Ajmal Siraiki son of Mitha through M/s. Ayaz Hussain Tunio, Adnan Shakeel Shaikh and Badaruddin Khoso, Advocates.

Complainant: Mr. Khalid Saeed Soomro, Advocate.

Respondent: The State through Ms. Sana Memon, A.P.G.

Date of hearing: **05.08.2025**

Date of Order: **05.08.2025**

O R D E R

JAN ALI JUNEJO, J:- By this common order, I intend to dispose of the above-captioned Criminal Bail Applications Nos. S-565, S-676, and S-716 of 2025 filed by the applicants Zahid S/o. Muhammad Paryal, Mukhtiar Ali S/o. Nazar Ali, and Muhammad Ajmal Siraiki S/o. Mitha, respectively. The applicants seek post-arrest bail in Crime No. 18 of 2025, registered at Police Station B-Section Dadu under Sections 462-B, 462-F, 379, 413, 427, 337-H(ii), and 34 PPC. The Applicants had earlier approached the Court of Sessions by filing their respective bail applications, which were dismissed vide orders dated 21.05.2025, 27.05.2025, and 24.06.2025 respectively, passed by the learned Additional Sessions Judge-I/MCTC, Dadu.

2. Brief facts as narrated in the FIR are that on 23.01.2025 at 2030 hours, the complainant Shafaullah, son of Ameer Muhammad Toongar, lodged an FIR at Police Station B-Section, Dadu, regarding an incident alleged to have occurred on 22.01.2025 at 10:00 PM. It is stated that the complainant, serving

as an Assistant Security Officer at PARCO, along with other security staff, was patrolling the pipeline at night when they allegedly found several individuals and identified using torchlight, including the present applicants, engaged in tampering with the underground petroleum pipeline passing through agricultural land. It is further alleged that some of the accused were armed and resorted to aerial firing to intimidate the PARCO staff. A high-pressure pipe, a clip, drums (including one containing 20 liters of diesel), and other related materials were recovered from the land purportedly linked to the accused persons.

3. **Learned counsel for Applicant Zahid** argued that the applicant has been falsely implicated due to mala fide and ulterior motives, being the owner of the land where the alleged tampering was claimed to have occurred. He submitted that no specific act of tampering or direct recovery was made from the applicant, nor was any incriminating article seized from his possession. He contended that the entire case rests on nighttime identification using torchlight, which is inherently unreliable, especially when the applicant and complainant were not previously known to each other. He further submitted that co-accused with similar allegations have already been granted bail, and the applicant stands on identical footing. He argued that the applicant's continued detention amounts to pre-trial punishment and prayed for grant of post-arrest bail.

4. **Learned counsel for Applicant Mukhtiar Ali** contended that the prosecution story is concocted and the presence of the applicant at the scene of offence is highly doubtful, especially considering the fact that the incident allegedly occurred at night and there is no recovery from his person. He argued that the applicant is a respectable citizen with no criminal record and has been implicated merely on suspicion. It was further submitted that the

recovery of only 20 liters of diesel allegedly stolen from a high-capacity mainline is illogical and casts serious doubt on the prosecution version. He also referred to the bail granted to co-accused with similar allegations and prayed that on grounds of consistency and further inquiry, the applicant be enlarged on bail.

5. **Learned counsel for Applicant Muhammad Ajmal Sirai** submitted that the applicant was not nominated in the FIR and his name surfaced only during the investigation, which by itself calls for further inquiry. He contended that the applicant has been arrested from his residence and not from the spot, and that nothing incriminating has been recovered from him. The learned counsel further contended that the entire case is based on presumptions and the prosecution has failed to establish any direct nexus of the applicant with the alleged tampering or theft. It was argued that in the absence of any substantive evidence and in light of the bail granted to other similarly placed co-accused, the applicant is also entitled to the same concession. He prayed for grant of post-arrest bail.

6. **Conversely, the learned counsel for the Complainant** vehemently opposed the bail applications, arguing that the applicants were duly identified at the scene and that such illegal tampering of critical petroleum infrastructure endangers not only economic interests but also national security. He contended that the installation of high-pressure pipes and valves could not have been executed without the active facilitation and knowledge of the applicants, particularly those having land ownership or possession. He argued that the nature of the offence is grave, falling within the prohibitory clause of Section 497 Cr.P.C, and prayed for dismissal of the bail applications.

7. **The learned Assistant Prosecutor General** adopted the arguments of the complainant's counsel and submitted that the allegations against the

applicants are serious in nature, involving organized theft from a protected petroleum installation. She contended that the applicants were found at or near the scene with others, some armed, and their presence facilitated the commission of the offence. She emphasized that the tampering of the main PARCO pipeline resulted in economic loss and potential environmental hazard, thus warranting strict view. She opposed the grant of bail and prayed for rejection of the bail applications.

8. I have heard and considered the arguments advanced by the learned counsel for the respective parties and have examined the available record with their able assistance, making a tentative assessment as permissible at the bail stage. From the record, it appears that the principal allegations against the applicants are based on their alleged identification using torchlight during nighttime hours—specifically around 2200 hours—without any corroboration from independent or neutral witnesses. No specific or overt act of tampering with the petroleum pipeline has been individually attributed to any of the applicants. Although diesel and other incriminating articles were recovered from the scene of the incident, it is an admitted position that nothing was recovered from the personal possession of the applicants. The recovery of such articles from the general area, without establishing a direct nexus to any individual applicant, weakens the evidentiary value at this stage for purposes of bail. The primary link connecting the applicants to the alleged offence appears to be the proximity of the land and their general presence as stated in the FIR. However, the questions as to whether the land belonged to the applicants, or whether they had knowledge of or exercised control over the alleged tampering operation, are matters requiring deeper inquiry during the course of trial. It is also an admitted position that several co-accused—namely Ghulam Asghar son of Gul Muhammad Laghari and Ajmal Khan son of

Noor Khan—have already been admitted to post-arrest bail by the trial Court vide orders dated 21.05.2025. Moreover, other co-accused, including Muhammad Ayoub, have been granted pre-arrest bail. The prosecution has not challenged the bail orders granted in favour of Ghulam Asghar, Ajmal Khan, and Muhammad Ayoub, which have since attained finality. The role ascribed to the present applicants appears to be at par with that of the aforementioned co-accused who have already been admitted to bail. The 'rule of consistency' is now a firmly established principle in bail jurisprudence, mandating that similarly placed accused persons be treated alike. Where no distinguishing features exist, the denial of bail to one while granting it to others undermines the constitutional guarantee of equality before the law under Article 25 of the Constitution of the Islamic Republic of Pakistan, 1973. Courts are therefore required to examine the allegations against an accused in the context of their co-accused and to determine whether their roles are substantially similar. This rule serves to eliminate arbitrariness in judicial discretion, ensures fair administration of justice, and maintains public confidence in the judicial process. Under analogous circumstances, the Honourable Supreme Court of Pakistan extended the concession of bail to the accused, invoking the principle of *rule of consistency* in light of the *doctrine of parity*, as enunciated in the case of ***Mst. Ishrat Bibi v. The State through Prosecutor General Punjab and another (2024 SCMR 1528)***. It is observed by the Apex Court that: “*The rule of consistency, or in other words, the doctrine of parity in criminal cases, including bail matters, recapitulates that where the incriminated and ascribed role to the accused is one and the same as that of the co-accused then the benefit extended to one accused should be extended to the co-accused also, on the principle that like cases should be treated alike, but after accurate evaluation and assessment of the co-offenders' role in the commission of the alleged offence. While applying the doctrine of parity in bail matters, the Court is obligated to concentrate on the constituents of the role*

*assigned to the accused and then decide whether a case for the grant of bail on the standard of parity or rule of consistency is made out or not". In a similar case, **Muhammad Daud and another v. The State and another (2008 SCMR 173)**, the Honourable Supreme Court of Pakistan held that: "It is also informed that co-accused Muhammad Ishaq and two others in the case have also been admitted to bail. Therefore, in view of the order in the case of Jamil Ahmad (supra) and following the rule of consistency the petitioners are also admitted to bail subject to furnishing surety bonds in the sum of Rs.100,000 (rupees one lac) with P.R. bond in the like amount to the satisfaction of the trial Court. The petitions are converted into appeal and allowed".*

9. Furthermore, the investigation has been completed, the challan has been submitted before the competent Court, and the applicants are no longer required for custodial interrogation. Therefore, their further detention would serve no useful purpose and would amount to punishment before conviction, which is impermissible under criminal law. The case against the applicants appears to call for further inquiry within the meaning of Section 497(2) Cr.P.C. The applicants are not shown to be previous convicts or hardened criminals. The prosecution's case hinges on circumstantial evidence and disputed identification, both of which would be scrutinized at trial. At this stage, the applicants have succeeded in making out a case for grant of post-arrest bail.

10. In view of the foregoing, all three applicants are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) each and a P.R. bond in the like amount to the satisfaction of the learned trial Court and these are the reasons of my short Order dated 05.08.2025.

11. It is clarified that any observation made herein is of tentative nature and shall not prejudice the case of either party during the trial. If any of the

applicants misuse the concession of bail or attempt to tamper with prosecution evidence, the trial Court shall be at liberty to take appropriate action in accordance with law.

JUDGE

Ahmed / Pa,