

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.D-74 & 131 of 2026

**PRESENT**

**Mr. Justice Jawad Akbar Sarwana.**

**Mr. Justice Syed Fiaz ul Hassan Shah.**

Applicant: Muhammad Hassan son of Abdul Majeed and Aijaz son of Muhammad Khoso, Through Mr. Abdullah Khan Leghari, Advocate.

Respondent: The State  
Through Mr. Irfan Ali, Deputy Prosecutor General.

Date of hearing: 19.05.2026

Date of decision: 25.05.2026

## ORDER

**Syed Fiaz ul Hassan Shah, J:** Through this single Order we intend to disposed of above captioned both bail applications arising out of same Crime No. 158 of 2024 registered at P.S. Jati District Sujawal whereby applicants seek post arrest bail under Section 497 Cr.P.C. Earlier their bail plea was declined by the learned Judge, Anti-Terrorism Court, Hyderabad vide order dated 16.02.2026 and 17.03.2026 respectively.

2. Brief facts of the prosecution case are that on 10-12-2024, the complainant received spy information regarding the presence of a proclaimed offender, Abdul Majeed alias Dodo Mallah (wanted in Crime No. 157/2024 U/S 395 PPC), alongside his accomplices at the Otaq of Altaf Otho. Acting on this tip, the complainant, along with subordinate staff, departed from the police station at 0100 hours via Station Diary Entry No. 15 and reached the designated spot at 0230 hours and successfully apprehended the accused, Abdul Majeed, while he was attempting to flee. Thereafter, a mob comprising named accused persons namely Hassan, Dodo, Altaf, Manthar, Niaz, Razzaq, Mumtaz, Mami, Ghulam Mustafa, Saddam, Zohaib, Deedar (all by the caste of Otho) along with 20 to 25 unidentified individuals, emerged. Being armed with deadly weapons, they challenged and encircled the police party and accused Hassan Otho opened fire with a repeater shotgun, causing gunshot injuries to ASI Punhoon Khan, HC Nazeer Ahmed, PC Ghulam Mustafa, PC Ali Nawaz, and PC Muhammad Shareef. Simultaneously, accused Dodo Otho fired upon and damaged the official police mobile van. Thereafter, exploiting

the ensuing chaos and darkness, the assailants forcibly rescued the apprehended accused, Abdul Majeed, from police custody and successfully fled the scene.

3. Learned counsel for applicant/accused Muhammad Hassan has mainly argued that he is innocent and involved in a false case by complainant with malafide intention and ulterior motives. According to him, the police had trespassed into the house of Abdul Majeed, misbehaved with women folk and took away Rs.250,000/- from the house, therefore, in order to save their skin, an applicant/accused and his family members were involved in a false case. It is contended that on similar allegations, co-accused Ghulam Hussain, Saddam Hussain and Zohaib have already been admitted to bail, therefore, present applicant/accused is also entitled for concession of bail on the rule of consistency.

4. Likewise, learned counsel for the applicant/accused Aijaz urged that he is innocent and involved in a false case by a complainant with malafide intention and ulterior motives due to political enmity. He has further argued that applicant/accused is not nominated in an FIR. It is further argued that there are general allegations against applicant/accused and no specific role has been assigned to him. He has contended that all witnesses are police officials and no independent person is cited as a witness. He has also argued that on similar allegations, co-accused have been granted bail; therefore, present applicant/accused is also entitled for bail on the rule of consistency. He has further argued that investigation has been completed and applicant/accused is confined in the jail and he is no more required for an investigation. In the end, he prayed that an accused may be granted post arrest bail.

5. Conversely, learned D.P.G appearing on behalf of the State has opposed to allow these bail applications on the ground that applicant/accused Muhammad Hassan is very much nominated in the FIR with specific role of causing firearm injuries to ASI Punhoon Khan, HC Nazeer Ahmed, PC Ghulam Mustafa, PC Ali Nawaz and PC Muhammad Shareef however, despite applicant/accused Aijaz is not nominated but he was subsequently introduced in the case by the PWs in their 161 Cr.P.C therefore, at this stage they are not entitled for the concession of bail in their favour.

6. We have heard the learned counsel for the parties and perused the record.

7. We have considered the contention of the learned counsel for applicant/accused Muhammad Hassan with regard to a rule of consistency. On a plain reading of the contents of FIR it appears that the role so assigned to the present applicant/accused was holding Repeater gun made fire which hit to the PC Ali Nawaz. While, perusal of bail granting order of co-accused Ghulam Hussain dated 04.08.2025, wherein the learned trial Court observed that although police has registered the case with the allegation that

several accused persons attacked with deadly weapons in order to release the accused Abdul Majeed from their custody but it is strange to note that the FIR as well as police file is silent about action or inaction of the police and there is no explanation or justification as to why the police officials did not resort to firing in self-defense or to prevent the escape of the said accused. Crucially, it is observed that all the listed Prosecution Witnesses (PWs) are exclusively police officials. Despite the alleged occurrence taking place in a manner and location where private individuals could easily be joined, no independent or private witness from the locality was associated or cited by the prosecution, which constitutes a blatant bypass of the mandatory provisions of Section 103 Cr.P.C. No plausible explanation has been offered by the investigating agency for this non-joining. It is a well-settled principle of law that when circumstances afford a reasonable opportunity to associate independent witnesses, the prosecution is duty-bound to do so; failure to do so deeply dents the credibility of the entire recovery process, drawing support from the principles laid down in *Nazeer Ahmad v. The State (2021 P.Cr.L.J Note 41)* and *Mehmood Ahmad v. The State (1995 SCMR 127)*. Furthermore, despite the arrest and physical remand of applicant Muhammad Hassan, **no recovery of the weapon of offense has been affected** from his possession. Additionally, the injury sustained by PC Ali Nawaz was admittedly on a **non-vital part of the body**, and its nature squarely falls within the ambit of **Section 337-A(i) / F(i) of the PPC**, which constitutes a **bailable offence** and does not fall within the prohibitory clause of Section 497 Cr.P.C. Following the dictums of the Honorable Supreme Court of Pakistan in *Tariq Bashir v. The State (PLD 1995 SC 34)* and *Sheikh Abdul Raheem v. The State (2021 SCMR 822)*, the grant of bail in non-prohibitory offenses is a rule, and refusal is a rare exception. Consequently, the case of applicant Muhammad Hassan is on an identical footing with that of co-accused Zohaib and Saddam, who have already been extended the benefit of bail, thereby fully attracting the **Rule of Consistency** in his favor, as authoritatively recognized in *Mubashar Hassan v. The State (PLD 2022 Lahore 684)*.

8. Turning to the case of applicant/accused Aijaz, he is not nominated in the FIR. Only sweeping and generalized allegations have been leveled against him without assigning any specific overt act or role in the alleged offence. Therefore, his case stands on an even better footing than that of the co-accused who have already been admitted to bail by the learned trial court.

9. The applicants have remained in custody since their arrest. It is a well-established "golden principle" of criminal justice that while the conviction of a guilty person may ultimately remedy an erroneous grant of bail, no adequate reparation can ever be afforded to an innocent individual for unjustified incarceration, even if acquittal is eventually secured. This principle, first enunciated in *Manzoor v. The State (1972 PLD*

**SC 81)**, has been consistently upheld by the Hon'ble Supreme Court. In light of this jurisprudence, the applicans are accordingly extended the concession of post arrest bail in the sum of Rs.50,000/-each, with P.R. bonds in the like amount, to the satisfaction of the learned trial Court.

**10.** Needless to observe that any finding recorded herein-above are tentative in nature for the purpose of deciding this bail application, and the trial Court will not be influenced with it and will try the case in accordance with law.

**J U D G E**

**J U D G E**

Ahmed/Pa,