

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

Criminal Bail Application No.S-1504 of 2025

Applicant: Dawood Son of Shafi Muhammad through Mr. Ali Najaf Memon, Advocate.

Respondent: The State through Mr. Irfan Ali Talpur, D.P.G.

Date of hearing: 02.03.2026

Date of order: 02.03.2026

**ORDER**

Riazat Ali Sahar, J. Through the instant bail application filed under Section 497 Cr.P.C., the applicant Dawood seeks post-arrest bail in Crime No.200 of 2025, registered at Police Station B-Section Dadu, for offences punishable under Section 23 (i) (a) & 25 Sindh Arms Act, 2013. His earlier bail application was dismissed by the learned Sessions Judge, Dadu, vide order dated 06.11.2025.

2. It is alleged by the prosecution that during custody in Crime No.196 of 2025, the complainant ASI Sajjad Hussain Zounr recovered an unlicensed SBBL gun in working condition from the possession of accused Dawood on 22.10.2025 at about 2330 hours, whereupon a separate FIR under the Arms Act was registered against him.

3. Learned counsel for the applicant contended that this case is originated from the main Crime No.196 of alleged encounter between police and accused wherein the accused has already been granted bail which fact has not been denied by learned Prosecutor present in Court. He further submitted that the alleged place of incident is a busy public link road leading from Bypass to Johi; yet, the prosecution failed to associate any independent witness from the locality, which creates doubt regarding the occurrence of the alleged incident. It is next argued that both witnesses are subordinate to the complainant hence they are

interested towards the applicant. It is further submitted that the recovery of alleged firearm has been foisted upon the applicant, as such, the applicability whereof is yet to be determined at trial after recording evidence.

4. Conversely, learned D.P.G. submits that the applicant/accused is nominated in the FIR with a specific role, as he was allegedly found present at the place of occurrence along-with firearm. Therefore, in the given circumstances, the applicant is not entitled for concession of bail.

5. Heard learned counsel for the parties and perused the record.

6. Admittedly, the present case appears to be an offshoot of Crime No.196 of 2025, which allegedly arose out of an encounter between the police party and the accused persons, in which the present applicant has already been admitted to bail by this Court. In such circumstances, the subsequent allegation regarding the recovery of an SBBL gun from the possession of the applicant, on the face of it, requires deeper scrutiny and calls for further inquiry during the course of trial. The culpability or otherwise of the applicant is yet to be established through legally admissible evidence, and the matter cannot be conclusively determined at this preliminary stage.

7. It is also noted that the investigation has already been completed and the case has been formally challaned; therefore, the custodial interrogation of the applicant is no longer required by the investigating agency. It is a settled principle of criminal jurisprudence that the liberty of a person cannot be curtailed without lawful justification, nor can detention be used as a form of pre-conviction punishment. The applicant has remained behind bars since the date of his arrest, i.e., 23.10.2025, and his continued incarceration, at this stage, would serve no meaningful purpose for the prosecution.

8. Furthermore, all the prosecution witnesses appear to be police officials and no sincere effort seems to have been made by the investigating agency to associate any independent witness from the

locality to witness the alleged recovery, which also renders the prosecution story open to closer scrutiny at trial. In such circumstances, the possibility of the applicant tampering with the prosecution evidence appears remote. As regards the alleged recovery of the SBBL gun, whether the same was actually recovered from the possession of the applicant or otherwise is a matter which requires proper appreciation of evidence and can only be determined after recording of evidence during the trial. Thus, the allegation of recovery itself falls within the ambit of further inquiry.

9. At this pre-trial stage, the prolonged detention of the applicant would amount to punishment before conviction, which is neither envisaged by law nor consistent with the settled principles governing the grant of bail, particularly where the case requires deeper examination and appreciation of evidence during trial.

10. In view of the foregoing, *prima facie*, the applicant succeeded in making out case(s) for further inquiry, as contemplated under Sub-Section (2) of Section 497 of the Code of Criminal Procedure (Cr.P.C.). Consequently, the instant Criminal Bail Application was allowed in terms of my short order dated 02.03.2026. These are the reasons for the same.

11. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature, therefore, the trial Court shall not be influenced in any manner whatsoever.

**JUDGE**

Muhammad Danish