

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 817 & 818 of 2025

Applicants : Gul Sher & Atta ur Rehman,
Through Mr. Muhammad Hanif, advocate

Respondent : The State
through Mr. Qamaruddin Nohri, DPG

Date of hearing : 16.04.2025

Date of order : 16.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. The applicants Gul Sher and Atta Ur Rehman seek pre-arrest bail in a case bearing crime No. 37/2025 offence u/s 320 & 427 read with Sections 322 & 114 PPC of Police Station Super Market, Karachi. The bail pleas of the applicants were declined by the Court of learned Additional Sessions Judge-VII/ MCTC-02 Karachi Central vide order dated 21.03.2025 & 27.02.2025 respectively.

2. The factual background of the case, being adequately encapsulated in the FIR annexed with this application, need not be reiterated herein for the purposes of this order.

3. Heard learned counsel for the applicants and learned DPG at length. The latter has recorded objections for confirmation of the bail. However, reluctantly concedes that the applicant Atta ur Rehman possessed a valid driving license.

4. Initially the case was registered for offence under Section 320 & 427 PPC. Being bailable offence, the applicant Gul Sher was admitted to bail in sum of Rs.2 million with P.R. bond of like amount vide order dated 01.02.2025 by the learned Judicial Magistrate IX Karachi Central. The requisite surety was furnished. Accordingly, he was released. After usual investigation report was submitted, adding Section 322 & 114 PPC for want of valid driving license of the applicant Atta ur Rehman being owner/driver of the vehicle and the bail plea was declined in the impugned order dated 21.03.2025.

5. During course of arguments, learned counsel for the applicants placed on the record photostate copy of the driving license of Atta ur

Rehman, which is issued in 2021 and valid up to 2030. The original thereof was produced before the Court. The learned DPG after having its verification through online system affirms its genuineness. Therefore, in the prevailing circumstances, it is yet to be determined at the time of trial, whether ingredients of Section 322 PPC attract to the facts of the case and remaining Sections are bailable. Therefore, the applicant could claim bail as of right, as held in landmark judgment passed in the case of Tariq Bashir & 5 others v. The State (PLD 1995 SC 34). The case is already been challaned and applicants are no more required for investigations.

6. Given the above, applicants have succeeded to make out case for bail. Accordingly, interim pre-arrest bail already granted to the applicants is hereby confirmed on the same terms and conditions. The surety furnished in the sum of Rs. 2,000,000/-, along with PR bond before the learned trial Court, shall remain continue. The applicants are further directed to join the investigation/ trial as and when required by the Investigating Officer. Needless to observe that the findings rendered hereinabove are tentative in nature and shall have no bearing on the merits of the case at trial. It is further clarified that in the event the applicant misuses the concession of bail or absents himself from the trial proceedings, it shall be open to the trial Court to cancel his bail in accordance with law, without making any reference to this Court.

J U D G E