

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 607/2025

Applicant : Sajid Ali Janwari son of Mehbob Ali Janwari,
Through Mr. Qaim Memon, Advocate

Respondent : The State
Through Mr. Muhammad Mohsin, APG

Date of hearing : 30.04.2025

Date of order : 30.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – Through the instant criminal bail application, the applicant, Sajjad Ali Janwari, seeks post-arrest bail in a case bearing crime No. 11 of 2025, registered at Police Station Bin Qasim, Karachi, for the offence under Section 23(1)(a) of the Sindh Arms Act, 2013. The learned Additional Sessions Judge-VI, Malir, Karachi, declined his earlier bail plea vide order dated 18.02.2025.

2. As per prosecution case, on 09.01.2025 at about 12:50 a.m., Sub-Inspector Yar Muhammad Dars, whilst patrol along with subordinates at about 01:50 a.m., near the Railway Phattak, Mehran Highway, Bin Qasim, Karachi, noticed three individuals standing in a suspicious manner. Upon seeing the police party, the said persons attempted to flee. However, one of them was apprehended and on inquiry, he disclosed his identity as Sajjad Ali Janwari. A 32-bore revolver was allegedly recovered from his possession. Upon being asked to produce a valid license for the said weapon, he failed to do so. Consequently, the present FIR was lodged against him.

3. Learned counsel argues, the applicant is innocent and has been falsely implicated in this case due to malafide on part of the police. It is further submitted that the alleged recovery is foisted and no independent witness was associated during arrest or recovery proceedings. The learned counsel has also submitted that the offence alleged does not fall within the prohibitory clause of Section 497 Cr.P.C., and as such, the case is one of further inquiry.

4. Conversely, the learned Assistant Prosecutor General, Sindh, has opposed the grant of bail and prayed for dismissal of the application.

5. The legal position arising from the interpretation of Section 23(1)(a) of the Sindh Arms Act, 2013, has been elaborated in *Ayaz Ali v. The State* (PLD 2014 Sindh 282), wherein it has been held that Section 23(1)(a) deals with the possession of a firearm or ammunition in contravention of Section 3 of the Act, which relates to acquisition and possession of licensed weapons. In contrast, Section 24 of the Act pertains to the use of licensed or unlicensed arms for an unlawful purpose and prescribes a distinct punishment. It is further observed that the maximum punishment under Section 23(1)(a) is up to 14 years; however, the offence involving recovery of a pistol falls within the scope of Section 24, which carries punishment up to 10 years and may not, in every case, attract the prohibitory clause of Section 497 Cr.P.C. Furthermore, the nature of punishment, and the quantum that may ultimately be imposed, is to be determined by the trial court after appreciation of evidence.

6. It is further pertinent to observe that the definition of “arms” under Clause (c) of Section 2 of the Sindh Arms Act includes pistols, revolvers, and other such weapons, whereas the term “firearm” defined under Clause (d) is narrower in scope. Hence, in the present case, whether the alleged weapon, a 32-bore revolver, falls within the ambit of “firearm” or simply “arms”, and whether Section 23(1)(a) is properly applicable, will be a matter to be examined by the trial court.

7. It is an admitted position that the entire prosecution case rests upon police witnesses and no effort was made to associate any independent witness despite the alleged occurrence taking place in a public area. The memo of recovery and arrest is not witnessed by any private person. Furthermore, the FIR does not suggest that the police party made any attempt to associate independent persons prior to search and seizure. Such omission casts doubt and raises a presumption requiring deeper scrutiny at the trial stage.

8. It is also a matter of record that the investigation has been completed and the final report (challan) has been submitted before the competent court. The applicant is no longer required for the purposes of investigation.

9. In view of the legal and factual aspects discussed hereinabove, a prima facie case of further inquiry within the meaning of Section 497(2) Cr.P.C. is made out. Accordingly, the applicant is admitted to bail upon furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Lac

only) and a personal bond in the like amount to the satisfaction of the Nazir of this Court.

10. Needless to observe, the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial.

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