

# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application Nos. 845 & 846 of 2025

Applicant : Imran alias Irfan s/o Hussain  
Through M/s. Ehsanullah & Ms. Naila  
Tabbassum Advocates

Respondent : The State  
through Mr. Tahir Hussain, Addl. P.G Sindh

Date of hearing : 07.05.2025

Date of order : 12.05.2025

## ORDER

**KHALID HUSSAIN SHAHANI, J.** — Through the instant Criminal Bail Application filed under Section 497 Cr.P.C, the applicant/accused Imran alias Irfan seeks post-arrest bail in case bearing crime No.208/2024, for offence under section 394, 397, 353, 324, and 34 PPC and 209/2024 for offence under section 23-1(a) Sindh Arms Act. The applicant is in custody since 20.03.2024. Earlier bail applications filed before the trial court were declined vide orders dated 23.10.2024 and 08.03.2025.

2. As per the FIR lodged on 20.03.2024, the complainant Ahsan Abdul Rashid stated that he and his brother were returning home on a motorcycle after closing their sanitary shop and had stopped near Zeeshan Family Park, Nazimabad, to buy fruits when two unidentified men, armed with TT pistols, intercepted them. One of the accused allegedly snatched the complainant's wallet containing Rs. 2,000, a copy of his CNIC, and his mobile phone. The accused then opened fire at police officers who arrived at the scene, and in retaliatory fire, one accused was injured and arrested, while the other was apprehended by the public. The arrested accused disclosed his identity as Imran S/o Hussain. An unlicensed T.T pistol and the stolen articles were recovered from him.

3. Learned counsel contended that the applicant is innocent and has been falsely implicated by the police in a concocted case. It is argued that the story of police encounter has been fabricated with malafide intent. He submitted that although the complainant has been examined before the trial court, he did not attribute any overt act of firing to the present applicant. It was further submitted that the recovery allegedly effected from the applicant was made in violation of Section 103 Cr.P.C, in the presence of police officials only, without any independent witness.

Learned counsel emphasized that the case against the applicant requires further inquiry, particularly in light of the delay in trial and the examination of only one witness so far despite the applicant remaining behind bars for more than one year. He urged that prolonged incarceration without progress in trial entitles the accused to bail.

3. Conversely, the learned APG opposed the grant of bail, submitting that the applicant was arrested at the spot with a firearm and robbed articles, and that the offence is of a heinous nature, involving armed robbery, encounter with police, and recovery of weapon. He argued that Section 394 PPC attracts the prohibitory clause of Section 497 Cr.P.C., and the applicant does not deserve the concession of bail. He contended that the delay in trial is not solely attributable to the prosecution and does not constitute a ground for release in such serious offences.

4. After hearing the arguments advanced by the learned counsel for the applicant as well as the learned Additional Prosecutor General for the State and upon perusal of the material available on record, it transpires that the applicant was apprehended at the spot, immediately after the incident, and from his possession, not only the allegedly robbed articles were recovered but also a loaded firearm, which qualifies as a deadly weapon, thereby directly implicating him in the commission of the alleged offence. The recoveries effected at the scene of occurrence lend substantial support to the prosecution's case at this stage. It is also noted that the applicant has not alleged or established any prior enmity, ill-will, or mala fide on the part of the complainant or police to suggest false implication in this case.

5. The insertion of Section 394 PPC, which deals with voluntarily causing hurt in committing robbery, is thus prima facie justified. Furthermore, the applicability of Section 397 PPC is attracted in cases where the accused uses a deadly weapon during the commission of robbery. Although Section 397 PPC does not create a separate substantive offence, it enhances the gravity of the offence under Section 392/394 PPC by mandating a minimum punishment of seven years where a deadly weapon is used to terrorize the victim during the act of robbery. These offences, by their nature and statutory punishment, squarely fall within the ambit of the prohibitory clause of Section 497(1) Cr.P.C., thereby disentitling the applicant from the concession of bail. Therefore, instant bail applications are dismissed.

6. However, this Court is mindful of the fact that the applicant has been in custody since 20.03.2024. In order to avoid any further delay and in the interest of expeditious justice, the learned trial Court is directed to proceed with the trial on a day-to-day basis and make all possible efforts to conclude the same preferably within a period of three (03) months from the date of receipt of this order. The office is directed to send a copy of this order to the learned trial Court for strict compliance.

**J U D G E**