

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

## Cr. Bail Application No.S- 459 of 2025

Applicants: Eiman Ali Maitlo and another through  
Mr. Dildar Ali Maitlo, Advocate

Respondent: State through Muhammad Raza  
Katohar, DPG

Date of hearing: **10.06.2025**

Dated of order: **10.06.2025**

### ORDER

**Amjad Ali Bohio, J:** Applicants Eiman Ali Maitlo and Kamal Chachar, both serving as Police Constables, seek post-arrest bail in respect of FIR No.114/2025 registered at Police Station Rohri under Sections 222 and 223 of the Pakistan Penal Code. Their earlier bail application was dismissed by the learned Additional Sessions Judge/Model Criminal Trial Court-I, Sukkur, vide order dated 24.05.2025. Hence, the instant application.

2. As per the FIR, on 09.05.2025 at approximately 1000 hours, an under-trial prisoner, Amjad Ali son of Riaz Ali Korai, confined in Crime No.70/2025 under Section 9(1)(B) of the Control of Narcotic Substances (CNS) Act, was taken out of Barrack No.1 security 04 of Central Jail Sukkur for the purpose of a "Pansar", where the applicants were assigned their duty. After about one hour, when the prisoners were to be returned to custody, he was found missing. A search was conducted within the jail premises, but the prisoner could not be located. Further inquiry revealed that CCTV footage near Watch Tower No.3, adjacent to the Dhobi Ghaat area of the prison, showed the prisoner using a government-installed iron pipe and a rope to scale the jail wall and escape. It was alleged that the escape occurred due to the negligence and carelessness of the present applicants, who were on duty at the relevant time. Consequently, on the

direction of the Superintendent Central Jail, the FIR was lodged by Deputy Superintendent Asif Ali Korai against the applicants under Sections 222 and 223 PPC. The applicants were subsequently arrested and are presently confined in Central Prison, Sukkur.

3. Learned counsel for the applicants contended that they are innocent and have been falsely implicated to deflect responsibility from higher prison officials, including the complainant himself, who was also on duty at the relevant time and has since been suspended. He submitted that the escape occurred from a section of the jail monitored via CCTV and guarded by Watch Tower No.3, which was under the control of Frontier Constabulary (FC) personnel, who were found absent from their designated post during the incident. He further contended that, as per the orders of the Inspector General of Prisons dated 09.05.2025 and 10.05.2025, an official inquiry was initiated to determine the responsibility and any negligence on part of the prison officials. The complainant, being a suspended officer and not legally competent to lodge the FIR, acted in violation of lawful directives and filed the complaint with mala fide intention to shield himself. It was argued that the applicants were merely performing their routine prison escort duties and that no evidence exists to show deliberate or wilful negligence, much less facilitation of the escape. The learned counsel further submitted that the offences do not fall within the prohibitory clause of Section 497(1) Cr.P.C., and that the case calls for further inquiry; therefore, bail may be granted. He placed reliance upon the case laws reported as Tariq Bashir and 5 others v. The State (PLD 1995 SC 34), Muhammad Ishaque v. The State (2019 YLR 677), Muhammad Zahid v. The State (2020 YLR 1257), Muhammad Akram v. The State (2020 P.Cr.L.J 31), Mazhar Hussain and others v. The State (1986 P.Cr.L.J 2842) and Muhammad Ramzan and others v. The State (2006 P.Cr.L.J 408).

4. Conversely, the learned Additional Prosecutor General opposed the bail application, contending that the applicants were directly responsible for supervising the prisoner, and their negligence facilitated the escape, justifying their continued detention.

5. I have heard learned counsel for the applicants as well as the learned Additional Prosecutor General, and examined the material available on record.

6. A perusal of the FIR reveals that the under-trial prisoner, Amjad Ali Korai, confined at Central Prison Sukkur in Crime No.70/2025 under Section 9(1)(B) of CNSA, went missing after the expiration of the relaxation period "Pansar". CCTV footage later showed the prisoner scaling the jail wall using an iron pipe and rope. According to the complainant, the applicants were posted at Security Point No.04 at the relevant time. It is admitted that the escape occurred within the premises of Central Jail and the prisoner was under the supervision of multiple prison officials, not just the applicants. The area from which the escape occurred was monitored through CCTV, and the designated security post (Chowki), manned by FC personnel, was found unmanned at the time of the incident. The record also confirms that the complainant was on duty, has since been suspended, and an official inquiry is underway pursuant to the orders of the competent authority. The premature registration of the FIR by a suspended officer, despite the ongoing inquiry, renders the case against the applicants one requiring further inquiry.

7. Moreover, the offences alleged under Sections 222 and 223 PPC are bailable or punishable with terms not extending to death or life imprisonment, and thus fall outside the prohibitory clause of Section 497(1) Cr.P.C. It is a settled principle of law that in such cases, the grant of bail is the rule and refusal the exception, unless exceptional circumstances exist. No such circumstances are present here. The

allegations primarily pertain to negligence; there is no material indicating the applicants' intentional or deliberate facilitation of the escape. Whether they assisted the prisoner in escaping is a matter for trial. The case, therefore, clearly falls within the scope of further inquiry as contemplated under Section 497(2) Cr.P.C. The applicants have been in custody since their arrest, the investigation stands concluded, and the trial is yet to commence. They have no prior criminal history, and in the given circumstances, their continued detention would serve no meaningful purpose.

8. In view of the foregoing, the applicants are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- (fifty thousand) each and P.R. bonds in the like amount to the satisfaction of the learned trial Court. It is clarified that the observations made herein are tentative in nature and shall not prejudice the case of either party at the trial.

9. The instant criminal bail application is accordingly disposed of.

Above are the reasons of my short order passed earlier today viz.

10.06.2025.

JUDGE

Naveed Ali