

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Before:

Mr. Justice Khalid Hussain Shahani

Mr. Justice Muhammad Jaffer Raza

1st Criminal Bail Application No.D-32 of 2025

1st Criminal Bail Application No.D-33 of 2025

Applicant : Raza @ Raza Muhammad @ Ali Khan
Through M/s Muhammad Ali Memon and
Raham Ali Abro, advocates for applicant in
both matters.

Respondent : The State
Through Mr. Nazir Ahmed Bangwar, D.P.G

Date of hearing : 01.07.2025

Date of order : 08.07.2025

ORDER

KHALID HUSSAIN SHAHANI, J.– These two applications viz. Criminal Bail Application No. 32 of 2025 and Criminal Bail Application No. 33 of 2025, have been preferred on behalf of applicant Raza @ Raza Mohammad @ Ali Khan, seeking remedy of post-arrest bail under s. 497 Cr.P.C r/w s. 21-D of the Anti-Terrorism Act, 1997. Criminal Bail Application No.D-32 of 2025 pertains to Crime No. 146/2024, registered at Police Station Stuart Ganj, District Shikarpur, for offences punishable under Sections 395, 120-B, 201, 34 of the Pakistan Penal Code, 1860, read with Sections 6 and 7 of the Anti-Terrorism Act, 1997. Concurrently, Criminal Bail Application No.D-33 of 2025 relates to Crime No. 217/2024, lodged at Police Station Sadar Jacobabad, for an offence punishable under Section 23-1(a) of the Sindh Arms Act, 2013.

2. The factual matrix precipitating these bail applications emanates from two interconnected FIRs. The genesis of these

proceedings lies in FIR Crime No.217/2024, registered on October 2, 2024, at Police Station Sadar Jacobabad. According to this FIR, SIP Ali Hassan Bhutto, upon receiving spy, intercepted a truck and arrested Saeed Ahmed and Abdul Bari, from whom a substantial cache of 138 9mm pistols and 276 magazines were allegedly recovered. Inspector Abdul Aziz Qureshi was assigned as the Investigating Officer (I/O) for this case. Subsequently, FIR Crime No.146/2024 was registered on October 21, 2024, at Police Station Stuart Ganj, upon the complaint of Inspector Saeed Ahmed Jumani, SHO P.S. Saddar. This FIR posits that Inspector Abdul Aziz Qureshi, in collusion with the present applicant Raza @ Raza Mohammad @ Ali Khan, and other co-accused including Abdul Rehman, Liaqat Ali, Mohammad Sajjan, Abdul Shamim, and four unknown persons conspired at a bypass hotel in Jacobabad to misplace the property recovered in Crime No.217/2024. It is further alleged that in furtherance of this conspiracy, accused WPC Shahzad Ansari and WASI Ghulam Murtaza were contacted via WhatsApp and subsequently took possession of a white colored sack. The applicant's previous endeavor to secure post-arrest bail before the learned Special Judge, Anti-Terrorism Court, Shikarpur, proved unsuccessful, resulting in the dismissal of his application vide order dated May 17, 2025.

3. Learned counsel representing the applicant, meticulously articulated several grounds in support of the bail applications, contending that there are no reasonable grounds to believe that the applicant has committed the alleged offences, and that his case warrants further inquiry. The salient points of his submissions are that the absence of independent evidence as all prosecution witnesses (PWs) are police personnel and related to the complainant, with no independent witness or mashir cited despite

the alleged incident occurring in a dense populated area (Shambo Shah bypass). This raises serious doubts about the credibility of the evidence. He highlighted that the incident is purportedly unseen by the complainant and eyewitnesses, relying solely on informant's mobile phone communication, making the FIR's basis questionable. It was strenuously argued that Sections 6/7 of the Anti-Terrorism Act do not apply to the facts and circumstances of these cases. He stressed the absence of concrete evidence, as no CCTV footage or specific description of the alleged hotel where the conspiracy took place has been produced. Furthermore, while mobile phone use is vaguely alleged, no relevant record connecting the applicant to the commission of the offence has been presented. Addressing the previous bail dismissal, he contended it was primarily based on the applicant's involvement in so many cases, which as per established legal principles is not a sufficient ground to deny bail, especially when no conviction has occurred. A pivotal point of argument was that a significant number of co-accused, including WPC Shahzad Hussain, WASI Ghulam Murtaza, Abdul Mateen, Inspector Abdul Aziz, Muhammad Saleem, Abdul Bari, and Saeed Ahmed, have already been granted post-arrest bail by the Special Judge, Anti-Terrorism Court, Shikarpur, vide order dated January 29, 2025, on the grounds of further inquiry and the applicant's case is argued to be no different in terms of the allegations and evidence. Based on the material collected by the police, coupled with the lack of direct evidence, he suggested that the case against the applicant requires further inquiry as envisaged under Section 497(2) Cr.P.C. He submitted that the applicant is in judicial custody and is not likely to abscond or tamper with prosecution evidence, and is ready to furnish solvent surety. Lastly, he argued that for Crime No.146/2024, the minimum sentence

under Section 395 PPC is four years, which does not fall within the prohibitory clause of Section 497(1) Cr.P.C.

4. Conversely, learned DPG for the State, vigorously opposed the grant of bail, contending that the applicant's name transpired in the FIR (for Crime No.146/2024), he was involved in the pre-planning to misplace recovered property, and mobile phone contact (CDR available) further connects him to the crime. He reiterated the applicant's alleged involvement in transporting arms and drugs and his history of multiple other cases as per the Criminal Record Office (CRO), indicating he is a habitual offender and might abscond or repeat the offence if released.

5. We have extended a patient hearing to the comprehensive arguments presented by the learned counsel for the applicant and the learned DPG for the State. We have also undertaken a meticulous and tentative assessment of the entire record placed before us, including the contents of the FIRs, the bail applications themselves, the order granting bail to co-accused, and the order dismissing the applicant's prior bail applications. At this preliminary stage of bail, it is a well-established principle of criminal jurisprudence that a deeper appreciation of evidence is strictly impermissible. The Court's role is confined to a tentative assessment aimed at ascertaining whether reasonable grounds exist to believe that the accused has committed a non-bailable offence, or conversely, whether the case demands further inquiry. Upon careful consideration of the available material, several crucial factors emerge, leaning towards the latter. The undeniable fact that all key prosecution witnesses are police personnel, many of whom are subordinate to the complainant raises a serious question mark over

the independent corroboration of the allegations. This lack of independent civilian witnesses particularly when the alleged conspiracy and dacoity transpired in a public domain was a significant factor in the bail granted to co-accused. This aspect undoubtedly warrants further inquiry into the veracity and reliability of the evidence. While the FIR for Crime No. 146/2024 generally names the applicant in the context of a pre-plan, the record currently lacks specific, direct, and conclusive evidence firmly establishing the applicant's active and pivotal role in the actual commission of the alleged dacoity or misplacement of property. The mere assertion of mobile phone contact, without detailed analysis of its contents or demonstrably direct linkage to the offence, remains a matter requiring thorough investigation and proof during trial.

6. It is pertinent to note that in Crime No.217/2024, the initial recovery of weapons was undisputedly effected from Saeed Ahmed and Abdul Bari, not the present applicant. The applicant's name does not feature in the original FIR of this case, and his implication appears to derive solely from subsequent statements recorded under Section 161 Cr.P.C., which, at the bail stage, holds a lower evidentiary value. This necessitates a further inquiry into his actual connection to the initial arms recovery. The order of the learned Special Judge, Anti-Terrorism Court, Shikarpur, to grant bail to multiple co-accused (including Inspector Abdul Aziz, who was also alleged to be a central figure in the conspiracy) on the express ground that the allegations against those accused are general in nature and that their case requires further inquiry, assumes paramount importance. In light of this judicial precedent from the trial court itself, and given that the applicant's alleged involvement stems from the same set of circumstances and allegations, applying

the principle of consistency and parity dictates that his case equally warrants the consideration of further inquiry.

7. The primary ground cited for the dismissal of the applicant's earlier bail application on May 17, 2025, was his involvement in a multitude of other cases. While such a record is certainly relevant, it is a well-settled principle of law that bail cannot be denied solely on the premise of other pending cases, particularly when no convictions have been secured. The mere apprehension of abscondence or repetition of offence, without a strong prima facie case in the instant matter, cannot override the fundamental principle of liberty, especially when the case itself points towards the need for further inquiry. The prosecution has not, at this juncture, presented any concrete evidence of a direct recovery of the alleged robbed property from the applicant. The allegations remain largely general, lacking the specificity required to firmly connect the applicant beyond a reasonable doubt at the bail stage. Lastly, whether the alleged acts, primarily involving dacoity and conspiracy to misplace property, truly fall within the stringent definitions of terrorism under the Anti-Terrorism Act, 1997, is a complex legal question that warrants meticulous examination during the trial. At this stage, the applicability of these enhanced provisions remains a matter for further inquiry.

8. In summation, based on a careful, albeit tentative, evaluation of the entire material placed before us we are of the firm view to conclude that the cases against the applicant Raza @ Raza Mohammad @ Ali Khan, in both Crime No.146/2024 and Crime No.217/2024, fall squarely within the ambit of further inquiry as enshrined in Section 497(2) of Cr.P.C. The prosecution has not at this

juncture, been able to present such unimpeachable evidence as to disentitle the applicant from the concession of bail. Furthermore, the applicant is in judicial custody and is no longer required for further investigation, as challans have been submitted in both cases.

9. In light of the foregoing comprehensive analysis and the considerations articulated above, we are satisfied that the applicant has successfully established a compelling case for the grant of post-arrest bail. Therefore, both bail applications, bearing No.D-32 & D-33 of 2025, are hereby allowed. The applicant Raza @ Raza Mohammad @ Ali Khan S/O Yar Mohammad, is directed to be released on post-arrest bail in Crime No.146/2024 of P.S. Stuart Ganj and Crime No.217/2024 of P.S. Sadar Jacobabad, subject to his furnishing a solvent surety in the sum of Rs.500,000/- (Rupees Five Hundred Thousand Only) in each case, and a personal recognizance bond in the like amount to the satisfaction of trial Court. It is explicitly clarified that any observations made in this order are purely tentative in nature and shall, in no manner whatsoever, prejudice the final determination of the cases on their merits during the trial.

JUDGE

JUDGE

Asghar Altaf/P.A