

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA**

Cr. Bail Application No.S-240 of 2025  
Cr. Bail Application No. S-250 of 2025

Applicant : Soobo Khan s/o Hasad Khan Sewani Jakhrani  
(In Cr. B.A No.S-240/2025)

Applicants : 1.Soobo Khan s/o Hasad Khan Sewani Jakhrani  
(In Cr. B.A No.S-250/2025) 2.Bhagio s/o Abdul Hameed Sewani Jakhrani  
Through Mr.Zafar Ali Malghani, Advocate

Respondent : The State  
Through Mr. Nazir Ahmed Bhangwar,  
DPG for the State.

Date of hearing : 10.07.2025

Date of order : 16.07.2025

**ORDER**

**KHALID HUSSAIN SHAHANI, J.**—Applicants Bhagio and Soobo Khan seek post-arrest bail, in a case bearing crime No. 47/2024, registered at Police Station Dodapur, for offenses under Sections 395, 396 & 397 PPC.

2. Learned counsel for applicant Bhagio submits that inadvertently he had mentioned name of applicant Soobo and prayed that his name may be struck of as on his behalf separate bail application has been filed. Order accordingly.

3. The prosecution's case originates from an FIR lodged by Gada Hussain Chandio on December 10, 2024, at P.S. Dodapur, concerning an incident that allegedly occurred on December 09, 2024, at about 5:30 a.m. The complainant stated that he, along with his cousin Abdul Haleem, and his uncle Abdul Razak and cousin Parvez Ahmed were traveling on two motorcycles towards Dodapur city. When they reached the link road near Bakeja Wah Pul, they were allegedly intercepted by five armed individuals. The FIR specifically names (1) Muhammad Bux son of Bhagio Sewani Jakhrani, (2) Darya Khan son of Shafi Muhammad Katohar, and (3) Waheed son of Gul Hassan Bangulani, along with two unidentified

persons with uncovered faces who could be recognized if seen again. The FIR further alleges that the accused, at gunpoint, robbed Abdul Razak's motorcycle, mobile phones, cash, and Parvez Ahmed's original CNIC. When accused Muhammad Bux attempted to sit on the stolen motorcycle, Parvez Ahmed resisted. In response, accused Darya Khan Katohar and Waheed Bangulani allegedly fired their T.T. pistols, causing injuries to Abdul Razak and Parvez Ahmed. During this commotion, accused Muhammad Bux purportedly shouted that he too had been hit by the firing and fell to the ground, succumbing to his injuries on the spot. Abdul Razak also died on the spot from a firearm injury. Parvez Ahmed sustained a firearm injury and was referred to Larkana for treatment. The complainant subsequently lodged the FIR after the necessary formalities and funerals.

4. During the course of the investigation, the present applicants were arrested, and the case was challaned before the competent Court. It is noted that a prior bail application (Crl. B.A. No.213/2025) was withdrawn with permission to file afresh, and a subsequent application was dismissed on April 19, 2025, leading to the filing of this application.

5. The learned advocates for the applicants strenuously argued that the applicants, Soobo Khan and Bhagio, are innocent and have been falsely implicated due to mala fide intentions and an existing old property dispute. They highlighted several critical discrepancies and infirmities in the prosecution's case, which they contended bring the applicants' case within the ambit of "further inquiry" under Section 497(2) Cr.P.C. Their primary argument rested on the fact that the applicants are not named in the FIR. They pointed out that while the FIR specifically named Muhammad Bux, Darya Khan, and Waheed, the names of the present applicants, Soobo Khan and Bhagio, were disclosed much later in supplementary statements of the prosecution witnesses. They further asserted that in the FIR, specific roles of firing upon the deceased Abdul Razak and

injured Parvez Ahmed were attributed to co-accused Darya Khan and Waheed. However, they contended that in the further statement of the complainant, a complete shift in version occurred, wherein the present applicants were falsely implicated with the direct role of causing the fatal and injurious fires. They argued that this material contradiction and total change in ocular account from the FIR to the subsequent statements, which implicates the applicants with direct roles not initially, attributed to them, clearly smacks of an afterthought and is fatal to the prosecution's case against them. The learned counsel stressed that such material improvements and the belated naming of the accused, without plausible explanation, render the prosecution's story against the applicants highly doubtful. They underscored that the complainant and eyewitnesses are closely related, and no independent witness has been cited, thus making their testimonies require independent corroboration, which is allegedly lacking. They also questioned the FIR's assertion that co-accused Muhammad Bux was killed by fires from his own companions, terming it a "flimsy assertion." Crucially, the learned advocates placed strong reliance on the dictum of the Hon'ble Supreme Court of Pakistan in Syed Saeed Muhammad Shah & others Vs. The State (1993 SCMR 550), which holds that "Statements recorded by the police after delay and without explanation are to be ruled out of consideration." They contended that the delayed implication of the applicants squarely falls within the purview of this principle. They further cited Resham Khan & another Vs. The State (2021 SCMR 2011), particularly emphasizing paragraph No.8, which speaks to the tentative assessment of material to create doubt, the object of trial being to enable the accused to face trial, and the extension of the benefit of doubt at the bail stage. They also referred to Shahzore v. The State (2006 YLR 3167) and Muhammad Tanveer vs. The State (PLD 2017 SC 733) to argue that bail is a rule in cases falling under Section 497(2) Cr.P.C. They lastly submitted that the

applicants are confined in jail and no longer required for investigation.

6. The learned Deputy Prosecutor General for the State, vehemently opposed the grant of bail, arguing that the applicants are accused of heinous offenses, including dacoity with murder (Section 396 PPC) and dacoity with attempt to cause death or grievous hurt (Section 397 PPC), which fall within the prohibitory clause of Section 497(1) Cr.P.C., carrying punishments of death or life imprisonment. He contended that there is sufficient material on record to connect the applicants with the crime, including their subsequent identification by the complainant and witnesses in their supplementary statements. He submitted that the inconsistencies highlighted by the defense are matters to be thrashed out during the trial after recording of evidence, and that it is premature at this stage to disbelieve the prosecution's version. He asserted that a *prima facie* case is made out against the applicants, and therefore, they are not entitled to the concession of bail.

7. This Court has given careful and anxious consideration to the arguments presented by the learned counsel for both sides and has undertaken a thorough analysis of the available record, including the FIR and the subsequent statements.

8. The gravamen of the prosecution's case against the present applicants hinges on their identification. It is undisputed that the FIR, lodged on December 10, 2024, conspicuously omits the names of the present applicants, despite mentioning other accused by name and stating that the two unidentified persons had "uncovered faces" and could be recognized if seen again. The implication of the applicants, Soobo Khan and Bhagio, only surfaced in supplementary statements recorded much later. This belated naming, without a plausible or satisfactory explanation for their omission in the initial report, is a critical factor that casts significant doubt on the genuineness of their involvement. This Court finds itself

bound by the authoritative pronouncement of the Hon'ble Supreme Court of Pakistan in Syed Saeed Muhammad Shah & others Vs. The State (1993 SCMR 550), which unequivocally lays down the principle that "Statements recorded by the police after delay and without explanation are to be ruled out of consideration." In the present case, the unexplained delay and the subsequent improvement in the prosecution's version, where the initial FIR named certain individuals and attributed specific roles, while later statements introduced the applicants with direct roles for the same acts, is a glaring inconsistency. Such material contradictions and the unexplained omission of the applicants' names from the initial report, despite the complainant having allegedly seen the assailants, raise a strong suspicion of false implication and afterthought.

9. Furthermore, the learned counsel for the applicants have correctly invoked the principle that the benefit of doubt can be extended to an accused even at the bail stage where the case falls within the ambit of "further inquiry" under Section 497(2) Cr.P.C. The case laws cited, including Resham Khan & another Vs. The State (2021 SCMR 2011), Shahzore v. The State (2006 YLR 3167), and Muhammad Tanveer vs. The State (PLD 2017 SC 733), consistently support the view that bail is the rule and refusal an exception, especially when material inconsistencies or doubts emerge that require a deeper probe into the accused's guilt. The drastic shift in the attribution of direct firing roles from the initially named accused to the present applicants in later statements constitutes such a material contradiction warranting further inquiry.

10. While the offences under Sections 395, 396, and 397 PPC are serious, the question at the bail stage is not of conclusive guilt but whether there are "reasonable grounds to believe" that the accused has committed a non-bailable offense. The presence of unexplained delayed implication and contradictory versions in the prosecution's case, as highlighted, vitiates the existence of such

"reasonable grounds" at this preliminary stage. The final determination of guilt or innocence will undoubtedly be made after a full-fledged trial, but the current material on record, viewed tentatively, clearly indicates that the case against the applicants falls within the purview of "further inquiry."

11. The applicants are stated to be residents of the same area, thus alleviating any apprehension regarding their abscondence. They are also no longer required for custodial investigation. For the foregoing reasons, this Court is satisfied that the applicants have made out a strong case for the grant of bail, as the material on record indicates that their involvement requires "further inquiry." Accordingly, both Criminal Bail Applications are allowed. The applicants, Soobo Khan and Bhagio, are hereby admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.500,000/- (Rupees Five Lacs only) each, and PR bonds in the like amount to the satisfaction of the learned trial court.

The observations made above are tentative in nature and shall not affect the case of either party at trial.

**JUDGE**

Asgar Altaf/P.A