

# IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

CrI. Bail Appln. No. S-85 of 2025

Applicant/Accused : Danish Ali S/o Bahram Khan Tunio  
Through Mr. Altaf Hussain Hisbani,  
Advocate

&

CrI. Misc. Appln. No. S-102 of 2025

Applicant/Complainant : Kamran Ali Shah s/o Syed Sher  
Muhammad Shah,  
Through Mr. Aijaz Hussain Solangi,  
Advocate

Respondent/State : Through Mr. Shafi Muhammad Mahar, DPG

Date of hearing : 15.08.2025

Date of order : 15.08.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J:** By means of this consolidated order, I propose to decide two interconnected applications arising out of Crime No. 02 of 2025, registered at Police Station Khanwahan, District Naushahro Feroze, for offence under Sections 397, 148, and 149, PPC. The first application is Cr. Bail Application No. S-85 of 2025 filed by accused Danish Ali seeking confirmation of ad-interim pre-arrest bail earlier granted by this Court on 03.02.2025. The other is Cr. Misc. Application No. S-102 of 2025 filed by complainant Kamran Ali Shah seeking cancellation of bail granted by the learned trial court to co-accused Naveed, Azad, Sadaqat and Shoaib.

2. The factual backdrop, in essence, is that complainant Kamran Ali Shah lodged the FIR on 23.11.2024 stating that in the early hours at about 02:00 a.m, while he along with his brothers Pinjal Shah and Zakir Shah was asleep in a room situated on their agricultural land, eight armed persons stormed the premises. They included Javed alias Tikko, Raja and Khalid armed with KKs; Shoaib carrying a repeater; Danish Ali, Azad and Sadaqat armed with pistols

and one unidentified man with a stick. It is alleged the intruders arrived on a tractor and two motorcycles, parked some distance away. Javed allegedly removed the CCTV camera, while Khalid and Raja forced open the door. Shoaib is blamed for robbing a mobile phone and Rs. 800 from the complainant. The accused Danish Ali and Sadaqat are alleged to have relieved PW Pinjal Shah of Rs. 600 and PW Zakir Shah of Rs. 1500. Thereafter, Shoaib, Danish and Azad purportedly loaded fertilizer bags on the tractor while other accused carried away motorcycles, UPS, inverter and a motor. Threats of dire consequences were hurled before their escape. Subsequently, the complainant claims to have approached relatives of Shoaib and Danish for amicable resolution, but upon their failure and refusal, the FIR came to be lodged.

3. It is an admitted position that bail applications of co-accused Naveed, Azad, Sadaqat and Shoaib were allowed by the learned trial court. Applicant Danish Ali had earlier approached the Court of the learned Additional Sessions Judge, Kandiaro for pre-arrest bail, which was refused on 01.02.2025, largely on the basis of his direct nomination in the FIR and the alleged recovery of tractor and motorcycles near the house of co-accused Naveed. Aggrieved thereof, the applicant sought relief from this Court.

4. Learned counsel for applicant Danish Ali argued at considerable length that the case is a concocted story born out of political enmity, and the implication of the applicant is a sheer misuse of criminal law to settle scores. It was pressed that there is unexplained delay of about two months in lodgment of FIR which gravely dents the credibility of the prosecution story; notably, no contemporaneous report was made at the police station even regarding this large scale occurrence. The counsel also highlighted contradictions, particularly the fact that the name of co-accused Naveed who is the brother of applicant was not originally mentioned in the FIR but was introduced belatedly in a subsequent statement of complainant despite his being well-known in locality, which

circumstance alone, according to counsel, reflects improvement and casts suspicion upon the complainant's version. Counsel further contended that since the trial court has already granted bail to co-accused on similar or even stricter allegations, the case of Danish Ali, being on better footing, merits confirmation of the interim protective relief by invoking the principle of rule of consistency. Lastly, it was emphasized that the alleged offences do not travel into the prohibitory clause of Section 497(1) Cr.P.C. and in such cases, the grant of bail is a rule while its denial is an exception. In support, reliance was placed on the case reported as *1986 SCMR 1680*.

5. In rebuttal, the learned Deputy Prosecutor General opposed confirmation of bail by arguing that Danish Ali stands nominated in the FIR with specific attribution of role of robbery of cash and assisting in loading stolen articles, hence the protection extended to him should not be continued. According to the prosecution, the delay in lodging FIR was occasioned by the complainant's attempts to resolve the matter through relatives of accused persons, who initially kept them on false assurances, a stance which, to prosecution, justifies the late report.

6. On his turn, learned counsel for complainant strongly supported the arguments of the State and additionally contended that the bails granted to respondents Naveed, Azad, Sadaqat and Shoaib are erroneous, being against the weight of evidence, hence this Court should cancel their bails and simultaneously dismiss Danish Ali's application.

7. Having heard the learned counsel for parties and carefully examined the record, certain factors emerge which cannot be brushed aside at this tentative stage. Firstly, there is considerable delay of about two months in successive reporting of the incident, which remains largely unexplained, thereby introducing serious doubts as to the genuineness of the charges.

Secondly, the subsequent introduction of the name of accused Naveed through an afterthought statement, despite his known presence in the vicinity, reflects evident improvement and undermines the overall credibility of the prosecution version. Thirdly, co-accused having already been granted bail by the jurisdictional court on virtually identical allegations, the rule of consistency attracts with equal or greater force in favour of applicant Danish Ali. The role assigned to him, being collective in nature, does not distinguish him materially from co-accused already enlarged on bail. Such factors squarely bring the matter within the fold of “further inquiry” under Section 497(2) Cr.P.C. warranting confirmation of pre-arrest bail.

8. On the converse prayer for cancellation of bail granted to other accused, it is well-settled that grounds for grant of bail and for cancellation of bail stand on distinct footings. Cancellation of bail is justified only when the order granting bail is demonstrably perverse, suffers from patent illegality or where the accused has abused the concession by threatening witnesses or tampering with process of law. No such exceptional circumstances have been brought on record in the present case. Grant of bail by trial court was based upon reasoned assessment, and the complainant has failed to allege or prove any misuse of concession by accused persons. It is also to be borne in mind that cancellation of bail is a harsh step interfering with individual liberty and the same must not be resorted to merely on insistence of complainant when the bailee has conducted himself within bounds of law.

9. In the light of above considerations and keeping in mind the guiding principles laid down by Honourable Supreme Court inter alia in *Jamaluddin v. The State (2023 SCMR 1243)*, this Court is persuaded to confirm the ad-interim relief earlier extended to applicant Danish Ali. Accordingly, Cr. Bail Application No. S-85 of 2025 is allowed. The ad-interim pre-arrest bail granted to Danish Ali vide order dated 03.02.2025 is hereby confirmed on the same

terms and conditions. Conversely, Cr. Misc. Application No. S-102 of 2025 filed by complainant for cancellation of bail of other accused is dismissed.

10. It is clarified that all observations herein are tentative in nature meant solely for disposal of these bail matters and shall not prejudice the trial court in ultimate determination of the case on merits after recording of evidence. Office to maintain copy of this order in the connected file.

**JUDGE**