

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Appln. No. S-638 of 2025

Applicant : Zohaib Ali son of Nadir Ali Khan Bozdar,  
Resident of Bozdar Mohalla Jarwar, Taluka  
Mirpur Mathelo, District Ghotki.  
Through Mr. Shabbir Ali Bozdar advocate.

The State : Syed Sardar Ali Shah Rizvi, Additional PG  
for the State.

Date of hearing : 28.08.2025  
Date of Order : 28.08.2025

### ORDER

**KHALID HUSSAIN SHAHANI, J.—** The applicant, Zohaib Ali Bozdar, seeks confirmation of the interim pre-arrest bail granted to him by this Court on 30-07-2025 in Crime No. 62 of 2024 registered at Police Station Jarwar. The FIR was initially recorded under Sections 419, 170, 406, 109 PPC, Section 25-D of the Telegraph Act, 1883 and Sections 155-C and 155-D of the Police Act, 2019. However, upon culmination of investigation, the challan was submitted under Sections 419 and 406 PPC alone, with all other provisions deleted and co-accused Rashid Ali placed in Column No. II, which report stood accepted by the learned Magistrate. The application for pre-arrest bail filed by the applicant before the learned 1st Additional Sessions Judge, Mirpur Mathelo, was dismissed on 26-07-2025, compelling him to approach this Court.

2. The facts as narrated in the FIR are that ASI Rashid Ali Bozdar, posted at Police Station Jarwar, allegedly exceeded his authority and disobeyed orders of his superiors, wherefor a daily entry was recorded and communicated to the SSP Ghotki. On the following day, while on patrol, the complainant party received spy information that Rashid Ali,

accompanied by the present applicant and two unknown persons, was seen impersonating government functionaries, misrepresenting themselves before shopkeepers, and issuing threats through abusive mobile communication. A search of the locality, however, yielded no accused and the FIR was lodged thereafter.

3. Learned counsel for the applicant submitted that the entire case is fabricated and based on hearsay information; no independent witness from the locality has supported the version of impersonation or threats despite the fact that alleged offences occurred in a public market. It was further highlighted that the investigation itself disowned the major allegations by placing co-accused Rashid Ali in Column No. II and by submitting challan under Sections 419 and 406 PPC only. These offences, it was argued, do not fall within the prohibitory clause of Section 497 Cr.P.C., therefore, bail is to be granted as a matter of rule and refusal is an exception. It was also argued that no recovery is pending against the applicant, nor is he required for the purposes of further investigation.

4. Conversely, the learned Additional Prosecutor General, while conceding the weak evidentiary basis of the prosecution case, opposed confirmation of bail on the sole ground that the applicant had remained absconder.

5. I have considered the submissions advanced at the Bar and perused the material available on record. The allegations as set up in the FIR are strikingly uncorroborated by any private person from the locality. The story of impersonation and issuance of threats to shopkeepers, in a public setting, without a single statement from the alleged victims, casts serious doubt upon the authenticity of the prosecution version. The

subsequent investigative findings further dilute the FIR narrative, since the name of the principal accused Rashid Ali was sent to Column No. II, accepted by the learned Magistrate, while the remaining statutory provisions were deleted.

6. The case thus falls squarely within the domain of “further inquiry” as envisaged under Section 497(2) Cr.P.C. The law on the subject is well settled. In *Tariq Bashir v. The State* (PLD 1995 SC 34), the august Supreme Court held that in cases not falling within the prohibitory clause of Section 497 Cr.P.C., grant of bail is a rule and refusal is an exception, and that bail may be refused only in extraordinary circumstances where there is likelihood of abscondence, tampering with the prosecution evidence or misusing the concession of bail.

7. As regards the contention of learned Additional Prosecutor General that the applicant had remained absconder, suffice it to say that the mere fact of abscondence is not, by itself, sufficient to warrant denial of bail when the case on merits otherwise entitles the accused to such relief. The Honourable Supreme Court in *Mazhar Ali v. The State* (2025 SCMR 318) has categorically declared that mere abscondence cannot outweigh the merits of the case and cannot, by itself, disentitle an accused from the concession of bail. The same principle was reiterated in *Muhammad Tanveer v. The State* (PLD 2017 SC 733), wherein it was observed that abscondence may have relevance at the stage of trial while assessing culpability, but it is not determinative of the question of bail when otherwise reasonable grounds for further inquiry exist.

8. It is also apropos to recall the principle laid down in *Riaz Jafar Natiq v. The State* (2011 SCMR 1708), that when the investigative record

itself places the matter under serious doubt, such cases clearly call for the application of Section 497(2) Cr.P.C. In the present case, the complete absence of corroboration, coupled with the official investigative outcome, leaves the prosecution case patently open to doubt.

9. In these circumstances, where no evidence of convincing character has been produced against the applicant, and where the matter requires further inquiry, there is no justification to refuse the relief of pre-arrest bail. Liberty of an individual cannot be curtailed on the basis of mere suspicion, particularly when the offences in question do not carry punishment within the prohibitory clause and no extraordinary circumstance has been pointed out to justify denial of this relief.

10. For the foregoing reasons, the application is allowed. The ad-interim pre-arrest bail granted to the applicant on 30-07-2025 is hereby confirmed on the same terms and conditions. It is clarified that the observations made in this order are tentative in nature and shall not prejudice the learned trial Court in the final adjudication of the case on merits.

**JUDGE**