

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-291 of 2025

Applicant : Hamadullah s/o Asadullah alias Abdul Hameed,
Through Mr. Qurban Ali Malano, Advocate

Complainant : Through Mr. Muhammad Ali Dayo, Adovate

The State : Mr. Manzoor Ahmed Shaikh, DPG

Date of hearing : 22.08.2025

Date of order : 29.08.2025

KHALID HUSSAIN SHAHANI, J. Applicant Hamadullah seeks post arrest bail in a case bearing crime No.33/2024, registered under Sections 302, 114, 148, 149 PPC at Police Station Abad, District Sukkur.

2. Briefly, the complainant Javed Ali reported to the police that on 23.02.2024, at about 10:00 p.m., while he and others were present near the gate of Public School, Military Road, Sukkur, five accused persons, including the applicant, allegedly armed with firearms, arrived on two motorcycles and, on the instigation of co-accused Asadullah alias Abdul Hameed, collectively made straight fire upon the complainant’s brother Sadaruddin, who died at the spot due to firearm injuries. The FIR was lodged after about 4 days of the incident, i.e., on 27.02.2024.

3. During investigation, I.O/DSP Abdul Qudoos Kalwar was assigned the case. He recorded further statements where certain prosecution witnesses only implicated other accused persons. The I.O. deemed the applicant innocent, placed his name in column No.2, and granted him bail under section 497(2) Cr.P.C., but the learned Magistrate did not accept this view and took cognizance against the applicant. Subsequent applications

for release or revision were dismissed by the learned Sessions Court and this Court in earlier rounds.

4. Heard learned counsel for the applicant and DPG for the State, duly assisted by the learned counsel for the complainant. The latter is reluctantly agreed that named of co-accused Asadullah like applicant was placed in column No.II of the report under Section 173 Cr.P.C, his bail plea was declined by this court, however, admitted to bail by Hon'ble Supreme Court vide order dated 15.08.2025, therefore, rule of consistency attracts to the case of applicant.

5. The applicant contends entitlement to bail based on the rule of consistency. By judicial order dated 07.03.2025, this court disposed of bail applications of co-accused Waris Ali and Assadullah alias Abdul Hameed arising out of the same occurrence, charge, and factual context. The record reflects that while the bail application of Waris Ali was allowed and he was admitted to bail, the application of Assadullah was dismissed despite the placement of his name in column No.2 of the challan, a finding arising from investigation but not accepted by the trial court. Subsequently, co-accused Asadullah approached the Supreme Court of Pakistan through Criminal Petition No.727 of 2025 and was granted bail vide order dated 15.08.2025. It is well-settled that once bail is granted by a superior court to one of several similarly situated accused, parity must be accorded under the established doctrine of consistency, except in manifestly distinguishable circumstances. The applicant's name, like that of co-accused Assadullah, was placed in column No.2 of the challan at the time of submission by the Investigating Officer, signifying a similar position vis-à-vis the prosecution's case. No material distinguishing the applicant's case in terms

of direct evidence, allegations, or judicial findings has been brought before this court. The pivotal fact remains that the Supreme Court, having granted bail to co-accused Assadullah, has reset the judicial equilibrium in the matter of post-arrest bail for accused whose culpability stands on equal footing by virtue of investigative findings.

6. In view of the above, and guided by the doctrine of consistency and parity, this Court finds that the applicant stands at precisely the same legal and factual vantage as co-accused Assadullah. There is no justification to withhold the benefit already granted at the apex level. Resultantly, the applicant is admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs. 2,00,000/ (Two hundred thousand only) and PR bond in the like amount to the satisfaction of learned trial court.

JUDGE