

## IN THE HIGH COURT OF SINDH AT KARACHI

Present

*Mr. Justice Zafar Ahmed Rajput*

*Mr. Justice Dr. Syed Fiaz ul Hassan Shah*

### **Criminal Bail Application No.954 of 2025**

Applicant : Zakir Ali S/o Nagman  
through Mr. Abdul Aziz Kanhar, Advocate

Respondent : The State  
through Mr. Ali Haider Saleem, Addl. P.G.

Date of hearing : 13.06.2025

Date of order : 13.06.2025

### **ORDER**

**Dr. Syed Fiaz Ul Hassan Shah, J. -** Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.04/2025 for offence under Sections 4/5 Explosive Substance Act, 1908 R/w 7 ATA, 1997 registered at PS CTD Karachi. His bail plea has been declined by the learned Special Judge, Anti-Terrorism Court No.XIII, Karachi [Trial Court] vide order dated 27.03.2025.

2. Brief facts of the case are that on 14.02.2025 at about 0430 hours, complainant ASI Khan Malik alongwith his subordinate staff duly armed with official weapons, bullet proof jackets according to Kott Register left PS for patrolling in the District Malir Karachi for the search of absconding accused and terrorists in police mobile bearing No.SPC-682. During the search, they received spy information through spy informer that two terrorists, who belong to banned organization were available at Bacha Jail Road for

delivery of hand-grenades to their co-terrorists. Upon such information, complainant conveyed the same to his subordinate and subsequently they reached alongwith informer at the pointed place situated at main NHA road near street corner of Bacha Jail, Qasim Textile Mills, District Malir, Karachi where on the pointation of the informer, they saw two persons on motorcycle. On personal search of applicant/accused named above the police team recovered INFINIX mobile phone, one wallet of grey colour, his CNIC, ATM and different cards and cash amount of Rs.600/- so also one brown colour envelope and from the pocket of motorcycle cover, one live hand-grenade in green colour on which ARGES HdGr 69 was mentioned. The documents of recovered motorcycle were demanded but applicant/accused failed to produce the same, thereafter, they also secured the motorcycle bearing Engine No.P806002, Chassis No.JF627288, Honda Company into their custody.

3. Heard the learned counsel for the parties and learned Additional Prosecutor General and with their assistance perused the record.

4. We have noticed that FIR No.04/2025 was registered with PS CTD on 14.02.2025 at 04:30 a.m. for the alleged incident occurred on 14.02.2025 at 02:00 a.m. and no plausible explanation or valid justification have been given for the delay of two hours when the maximum distance is not more than half an hour from the Police Station, specially in the midnight when the traffic flow is less than 10% across the city.

5. We have further noticed that on 13.02.2025, the father of the applicant filed an application with the DIG, SP Complaint Cell District Malir and SHO PS Shah Latif Town for missing of his son Zakir Ali (Applicant), which was received by hand to the police officials as well as through TCS on the same date. We have further noticed that a receipt of purchasing new motorcycle Honda CD70 placed on record issued by Al Aziz Autos, Zafar Town, Karachi on monthly instalments. We observe that though it is not rigid formula, but in almost criminal cases, the criminals do not use their own vehicle or motorcycle for the commission of crime and in the present case the applicant has produced documents of ownership and monthly installment receipt which negates the prosecution story that the applicant/accused used motorcycle without number plate and ownership and thus a reasonable doubt is created about the prosecution story.

6. Furthermore, in the presence of applications dated 13.01.2025, which is one month prior in time from the date of registration of FIR, it appears that the father of the applicant since more than 30 days was searching for his missing son, as such in the presence of such complaint prior in time, the recovery of alleged case property becomes doubtful and a violation of Section 103 CrPC must strictly be construed as the prosecution has not arranged any private or independent witnesses to testify the recovery when police party had prior information about the applicant.

7. The Additional Prosecutor General has conceded that as per the material on prosecution file, the hand grenade so recovered was without detonator making further doubtful the case of prosecution, that the useful intent and act or purpose and design as ingredients in Section 6 of the Anti-Terrorism Act, 1997 are not attracted being ineffective, inefficient and inoperative weapons. Therefore, the applicant has made out a case of “further inquiry” and he is admitted for post arrest bail in the above referred crime. These are the reasons of our short order dated 13.6.2025.

8. Needless to say that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

**JUDGE**

**JUDGE**

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