

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. D-56 of 2025

BEFORE:

Mr. Justice Amjad Ali Bohio, J.

Mr. Justice Khalid Hussain Shahani, J.

Applicant : Arbab @ Arbab Bheel son of Kisso Bheel,
Through Mr. Ghulam Shabbir Shar, Advocate

The State : Through Mr. Aftab Ahmed Shar, Addl. P.G

Date of hearing : 17.09.2025
Date of short order : 17.09.2025
Date of Reasons : 19.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J.—This is a post-arrest bail application, filed under Section 21-D of the Anti-Terrorism Act, 1997 read with Section 497 Cr.P.C., by Arbab @ Arbab Bheel, accused in FIR No. 182 of 2025 registered at Police Station A-Section Dadu for offences under Sections 123-A, 124-A, 153-A, and 341 PPC, read with Sections 6 and 7 of ATA, 1997.

2. The prosecution alleges that on November 15, 2023, during routine patrolling, the police received spy information that 10-12 unidentified persons had blocked Dadu-Larkana road at Nawa Gate, raising slogans against the sovereignty of Pakistan and abusing law enforcement agencies. Upon arrival, the police witnessed the crowd disperse. Subsequently, investigation revealed that applicant Arbab Bheel had blocked the road, created public hindrance, and used abusive language with alleged intent to spread terror and fear among the public. The FIR was registered on June 13, 2025, almost nineteen months after the alleged incident, when the accused was already confined, having been acquitted in an earlier terrorism case. All witnesses cited in the FIR are police officials.

3. The learned counsel for the applicant made submissions that the accused has been falsely implicated, with mala fide intent, due to prior acquittal in another terrorism case. The FIR is delayed by one year and 7 months without plausible explanation, raising grounds of fabrication and ulterior motive. No independent witness is cited; all witnesses are police officials with vested interest. The allegations are vague and non-specific; no direct, corroborative evidence or attribution of a specific role is present. Section 124-A PPC, a key charge, has been struck down by the Lahore High Court judgment in *Haroon*

Farooque v Federation of Pakistan as unconstitutional, further undermining the prosecution's case. The applicant has been in custody since 2023 and was shown as present in jail during the alleged occurrence. No video, audio, or documentary proof of slogans or speeches has been presented by the prosecution. The circumstances call for further inquiry under Section 497(2) Cr.P.C., and precedent dictates that bail is not to be withheld as punishment. Bail should be granted, keeping in mind superior court judgments establishing the right to bail in cases of further inquiry and innocuous evidence.

4. The learned DPG opposed the bail application, asserting that the applicant is named in FIR and 161 Cr.P.C. statements, allegedly establishing his prima facie involvement. The offences charged, falling under terrorism and anti-state activity statutes, carry punishment exceeding ten years and therefore attract the prohibitory clause of Section 497(1) Cr.P.C. Witnesses, though police officials, are not to be declared untrustworthy at bail stage; their statements corroborate prosecution's version. Investigation is ongoing, with the possibility that concrete evidence may yet emerge linking the applicant to the alleged crime. The delay in FIR registration is explained by ongoing investigations; it should not be fatal to prosecution at bail stage. The court should be cautious in granting bail in cases concerning offences against the State and acts potentially prejudicial to public order.

5. Having considered arguments and perused the available material, the Court reached to the conclusion that the delay of nineteen months in lodging the FIR, especially against a person in jail custody throughout the alleged period of offence, strikes at the root of prosecution's credibility and raises serious doubts about bona fides. In *Manzoor and 4 others v. The State* (PLD 1972 SC 81), it was established that unexplained delay in FIR registration creates reasonable doubt, entitling accused to bail. The prosecution witnesses are police officials; no neutral or independent witness corroborates the incident. No video, audio, or documentary evidence is presented. In *Abdul Malik v The State* (PLD 1968 SC 349), the Supreme Court held that reasonable grounds must be distinguished from mere suspicion, and circumstantial or tenuous evidence falls short of this standard. The facts and material produced create more questions than answers regarding the accused's alleged involvement. The Supreme Court in *Muhammad Ismail v. Muhammad Rafique* (PLD 1989 SC 585) held that if reasonable grounds do not exist for believing the accused is guilty, bail becomes his right, especially in circumstances calling for further inquiry.

6. The main charge of sedition (Section 124-A PPC) has been declared unconstitutional by Lahore High Court, substantially weakening the prosecution's case, and raising the issue of prosecutorial viability on this ground. Bail law leans heavily toward the protection of liberty. In *Tariq Bashir v The State* (PLD 1995 SC 34), the Supreme Court emphasized that bail is a rule and refusal an exception, particularly where no likelihood of absconding or tampering with evidence exists. The Supreme Court in *Manzoor's Case* (PLD 1972 SC 81) further cautioned against pre-trial punishment, stating that "the ultimate conviction and incarceration of a guilty person can repair the wrong caused by mistaken bail, but no satisfactory reparation can be offered for unjustified incarceration of an innocent man".

7. Record is devoid of any specific role attributed to the applicant; the allegations are general, relating to participation in a protest. Where collective accusations are levelled, and no individual "overt act" is established, bail cannot be refused on mere suspicion. Applicant remains in custody, with no allegation or apprehension of absconding, tampering, or repetition of offence. The investigation is complete, and applicant is no longer required for interrogation.

8. Superior courts have repeatedly held that law is not to be stretched in favor of prosecution and benefit of doubt must go to the accused even at bail stage. Where prosecution's conduct appears mala fide or motivated by vendetta, courts are required to intervene and protect the liberties of citizens.

9. For the reasons discussed above, this bail application is/was allowed vide short order dated 17.09.2025. Accordingly, applicant/accused Arbab @ Arbab Bheel is/was admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and P.R. Bond in like amount to the satisfaction of the trial court. These are the reasons of the short order dated 17-09-2025. It is clarified that the observations made herein are of tentative nature and shall not prejudice the merits of the case at the time of trial.

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