

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2342 of 2025

Applicant : Salman son of Mayyhar, through
Ms. Naila Kausar, Advocate

Respondent : The State, through Mr. Tahir Hussain,
Assistant Prosecutor General, Sindh

Date of hearing : 23.10.2025

Date of decision : 23.10.2025

ORDER

Jan Ali Junejo, J.- The applicant, Salman son of Muhammad Mayyhar, seeks post-arrest bail in Crime No.163/2025, registered under Sections 393/34, Pakistan Penal Code at Police Station Tipu Sultan, Karachi, through this application under Section 497 Cr.P.C. The applicant's earlier bail pleas were dismissed by the learned XIth Additional Sessions Judge, Karachi South, vide order dated 16.05.2025 and 29.05.2025, hence the present application before this Court.

2. The allegation against the applicant, as per the contents of the FIR lodged by the complainant Asad Gul, is that on 18.04.2025 at about 2115 hours, while the complainant was present outside his residence at House No. L-77, Block-6, P.E.C.H.S., Karachi, two persons riding on a motorcycle approached him, pointed weapons at him, and attempted to snatch his mobile phone. The complainant allegedly resisted, managed to seize a fake black-colored pistol from the hand of the person sitting at the rear seat (the present applicant), and apprehended him while his accomplice fled. Subsequently, the police arrived and took the applicant into custody along with the fake pistol, leading to registration of the FIR under the above sections.

3. The learned counsel for the applicant argues that the applicant is innocent and has been falsely implicated in this case by the complainant in collusion with police officials, due to mala fide intentions. She argues that the story narrated in the FIR is inherently improbable and self-contradictory, as it is beyond ordinary human conduct that an unarmed complainant could snatch a weapon from two armed assailants in a

sudden encounter at night. She further argues that the alleged weapon recovered is a toy/fake pistol; therefore, no element of a “deadly weapon” or real threat existed to attract Section 393 PPC in its true sense. She submits that the investigation has been completed and the final challan has been submitted before the trial court; hence, the applicant’s further custody is not required for investigative purposes. She contends that the complainant’s version that the public apprehended and beat the accused, without any independent witness statements, renders the case doubtful and calls for further inquiry as contemplated under Section 497(2) Cr.P.C. She also argues that the mere registration of certain other criminal cases, without conviction by a competent court of law, cannot be a ground to deprive the applicant of his liberty guaranteed under Articles 9 and 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. Lastly, the learned counsel prays for the grant of bail.

4. Conversely, the learned A.P.G. vehemently opposes the grant of bail. He argues that the applicant was apprehended red-handed at the scene of occurrence, and a weapon, alleged to have been used in the commission of the offence, was recovered from his possession, thereby prima facie connecting him with the crime alleged. He contends that the act of attempting to commit robbery at night constitutes a serious and heinous offence punishable under Section 393, P.P.C., which creates a sense of insecurity among the public. He submits that the complainant and other witnesses have fully supported the prosecution version, and their statements corroborate the recovery memo prepared at the spot. He further argues that the applicant has a previous criminal record and is reportedly involved in other similar offences, reflecting his habitual criminal conduct. He maintains that the grounds raised by the applicant do not justify the concession of bail at this stage, as the recovery of the weapon and other circumstantial evidence sufficiently establish his connection with the offence. He, therefore, prays for the dismissal of the bail application.

5. I have considered the arguments advanced by the learned counsel for the applicant as well as the learned A.P.G. for the State, and have perused the material available on record with their able assistance. A tentative examination of the FIR reflects that the alleged pistol recovered from the applicant was fake, and no real or operational firearm was found in his possession. This single fact, at the bail stage, strikes at the very root of the prosecution case, as the offence under Section 393, P.P.C. (Attempt to Commit Robbery) necessarily presupposes the use of actual force or a real threat of harm capable of instilling genuine fear in the victim. The recovery of a toy or fake pistol, therefore, materially diminishes

the element of intimidation envisaged under the law. It is further observed that the prosecution has merely alleged an attempt of robbery by the applicant with a toy weapon, and no physical harm, injury, or act of violence has been attributed to or caused by the applicant to the complainant or any other person at the scene. This aspect substantially weakens the element of criminal intent and diminishes the gravity of the accusation at this stage. In a similar case, **Muhammad Azeem v. The State (1999 P.Cr.L.J. 308)**, this Court held that: “Admittedly, no harm/injury was caused to any one and as the learned A.A.-G. has conceded it is an attempt of robbery and does not fall within the prohibitory clause. According to the accused/applicant he is innocent and has been falsely implicated. Relying on the judgment of the Supreme Court and on the facts, I admit the accused to bail on furnishing security of Rs. 2,00,000 (Rupees two lacs only) and P.R. Bond of the like amount to the satisfaction of the trial Court”. Emphasis is supplied. In another similar case, **Mashooq Ali and another v. The State (PLD 2002 Karachi 322)**, this Court held that: “Admittedly nothing has been robbed from the complainant as mentioned in the F.I.R. but it was an attempt of robbery and do not fall within the prohibitory clause of section 497, Cr.P.C. In view of the foregoing the applicants/accused have made out a case for grant of bail. Resultantly the bail is granted to the applicants/accused in the sum of Rs. one lac each and P.R Bond in the like amount to the satisfaction of trial Court”. The underlining is supplied.

6. Moreover, no independent witness has been cited, despite the assertion that several residents of the locality had gathered at the place of occurrence. The non-association of independent witnesses, particularly when they were admittedly available, casts serious doubt on the veracity of the prosecution version and makes the case one of further inquiry. The record further reveals that the investigation has been completed and the challan has been submitted before the trial court; therefore, the applicant's continued detention is no longer required for investigative purposes. In these circumstances, the prolonged incarceration of the applicant would serve no useful purpose.

7. It is also settled law that mere registration of multiple criminal cases against an accused person, without conviction by a competent court, cannot be used to deny bail, as each case must stand on its own merits. In similar circumstances, in the case of **Ali Anwar Paracha v. The State and another (2024 SCMR 1596)**, the Honourable Supreme Court of Pakistan held that: *“As far as the argument of the learned counsel for*

the complainant that other cases of similar nature have been registered against the petitioner is concerned, mere registration of other criminal cases against an accused does not disentitle him for the grant of bail if on merits he has a prima facie case. Reliance is placed on Moundar and others v. The State (PLD 1990 SC 934), Muhammad Rafiq v. State (1997 SCMR 412), Syeda Sumera Andaleeb v. The State (2021 SCMR 1227) and Nazir Ahmed alias Bhaga v. The State (2022 SCMR 1467)”.

8. In the present case, the nature of the recovered weapon, the lack of corroborative evidence, the absence of harm caused, and the implausible sequence of events narrated in the FIR all call for further inquiry within the meaning of Section 497(2) Cr.P.C. The applicant has remained in custody since 18.04.2025, and his continued detention before conclusion of trial would amount to pre-trial punishment, which is not permissible under settled law.

9. In view of the above discussion, I am of the considered opinion that the applicant has succeeded in making out a case of further inquiry within the meaning of Section 497(2) Cr.P.C. Accordingly, the instant bail application is allowed. The applicant Salman son of Muhammad Mayyhar is admitted to post-arrest bail in case FIR No.163/2025, under Sections 393/34 PPC, Police Station Tipu Sultan, Karachi, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial court. It is, however, made clear that the observations made herein are tentative in nature, strictly confined to the disposal of this bail application, and shall not prejudice the case of either party at trial. These are the detailed reasons of the Short Order dated: 23-10-2025.

JUDGE