

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2623 of 2025

Applicant : Mukhtiar @ Bakhto, through Mr. Muhammad Juman, Advocate.
Respondent : The State, through Ms. Rubina Qadir, D.P.G.
Date of Hearing : 03.11.2025
Date of Order : 03.11.2025

—

ORDER

TASNEEM SULTANA, J: Through this criminal bail application, the applicant seeks his post-arrest bail in Crime No.1331 of 2025, registered under Section 23(1)(a) of the Sindh Arms Act, 2013, at Police Station Shah Latif Town, Karachi. His earlier plea for similar relief was declined by the learned IV-Additional District & Sessions Judge, Malir Karachi, vide order dated 19.09.2025.

2. Brief facts of the prosecution case, as narrated in the FIR, are that on 11.09.2025 at about 0230 hours, complainant SIP Shoukat Ali of PS Shah Latif Town, along with other police officials, while patrolling in official mobile SPC-271 near Khuda Ki Basti, Goth Road, Naddi Pull, Manzil Pump, noticed three motorcycles with four riders each coming from Kohi Goth side in suspicious condition. On being signalled to stop, they allegedly attempted to flee but were intercepted by the police party. Upon inquiry, one of them disclosed his name as Mukhtiar @ Bakhto S/o Ghulam Hussain, who was riding a Honda 125 motorcycle without number plate. During personal search, conducted in presence of mashirs, one 30-bore pistol without number, loaded with a magazine containing four live rounds, was recovered from the right-side naifay of his shalwar along with cash and mobile phone. Co-accused were also apprehended and recoveries of live rounds and pistols were effected from them. On verification through CPLC, two of the motorcycles were found stolen from PS Darakhshan and PS Sachal, respectively, while one Honda 125 had no record. As none of the accused produced any licence for the recovered weapons and ammunition, they were arrested under Section 23(1)(a) of the Sindh Arms Act, 2013, and the property was sealed and sent for FSL examination.

3. Learned counsel for the applicant has argued that the applicant is innocent; that recovery is foisted; that no independent person was associated as mashir; and that the case calls for further inquiry.

4. Conversely, learned Assistant Prosecutor General has opposed the grant of bail by submitting that the offence falls within the prohibitory clause; that the recovery was made from the conscious possession of the applicant; and that there appears no element of mala fide or ulterior motive on the part of the police to falsely implicate the applicant in a case of this nature.

5. Heard. Record perused.

6. Prima facie, the record reflects that the applicant was apprehended on the spot and one 30-bore unlicensed pistol loaded with four live rounds was recovered from his conscious possession, for which he could not produce any valid licence. The recovery memo stands supported by the mashirs who were part of the raiding party. The weapon was duly sealed and sent to the Forensic Science Laboratory, the report of which confirms that it is a working firearm. The nature of the offence attracts punishment extending up to fourteen years and squarely falls within the prohibitory clause of Section 497 Cr.P.C. The plea of false implication or foisted recovery, without any material suggesting mala fide on the part of the police officials, cannot be given credence at this stage.

7. It is now well settled law that at the bail stage only a bird eye-view of evidence is to be taken into consideration while deeper appreciation of evidence is not permissible, therefore, accused is required to establish a case of further inquiry. Of course, if it appears to the Court at any stage of the trial that there are no reasonable grounds for believing that the accused had committed a non-bailable offence and there are sufficient grounds for further inquiry into his guilt, the accused shall be released on bail. While exercising such discretion, the Courts must always satisfy its conscious between existence or non-existence of "reasonable grounds" to believe link or otherwise of accused with offence particularly when offence is falling within prohibitory clause. In every criminal case some scope of further inquiry into the guilt of the accused is exists, but on that consideration alone it cannot be claimed by the accused as a matter of right that he is entitled to bail. For bringing the case in the ambit

of further inquiry, there must be some prima facie evidence, which on the tentative assessment, are sufficient to create doubt with respect of involvement of accused in the crime. In *Iqbal Hussain vs. Abdul Sattar and another* (PLD 1990 SC 758) while setting aside the bail granting Order of the High Court, the apex Court referred to the tendency in Courts to misconstrue the concept of further inquiry and held as follows:-

“..... It may straightaway be observed that this Court has in a number of cases interpreted subsection (2) of section 497 Cr.P.C. which, with respect, has not been correctly understood by the learned Judge in the High Court nor has it been properly applied in this case. While he thought that it was a case of further inquiry which element as has been observed number of times in many cases, would be present in almost every case of this type. The main consideration on which the accused becomes entitled to bail under the said subsection is a finding, though prima facie, by the Police or by the Court in respect of the merits of the case. The learned Judge in this case avoided rendering such prima facie opinion on merits as is mentioned in subsection (2) of section 497 Cr.P.C. and relied only on - the condition of further inquiry. This approach is not warranted by law. Hence, the case not being covered by subsection (2) of section 497 Cr.P.C., the respondent was not entitled to bail thereunder as of right.

8. The combined effect of the material on record, when viewed in the light of the above dictum laid down by the apex Court, prima facie indicates that sufficient grounds exist to believe that the applicant participated in the occurrence. On tentative assessment, his case does not fall within subsection (2) of section 497 Cr.P.C. The offence with which he is charged squarely falls within the prohibitory clause and attracts the settled principle that bail is to be declined in such cases.

9. For the foregoing reasons, the bail application filed by applicant Mukhtiar @ Bakhto stands **dismissed**. These are the reasons for short order dated 03.11.2025. Needless to add, all observations made herein are tentative in nature and confined to the bail stage, and shall not prejudice the trial Court in deciding the case on merits.

JUDGE

Ayaz Gul