

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2271 of 2025

Applicant : Muhammad Babul son of Abdul Hussain, through M/s. Muhammad Rafiq Brohi and Malik Samsam, Advocates

Respondent : The State, through Ms. Seema Zaidi, Additional Prosecutor General, Sindh

Date of hearing : 23.10.2025

Date of decision : 23.10.2025

ORDER

Jan Ali Junejo, J.- By means of this Criminal Bail Application, the Applicant, Muhammad Babul son of Abdul Hussain, seeks post-arrest bail in Crime No. 346 of 2025, registered at Police Station New Karachi, District Central Karachi, for offences punishable under Sections 353, 324, 34, PPC, after his bail plea was declined by the learned III Additional Sessions Judge, Karachi Central vide order dated 19.06.2025.

2. The prosecution case, in brief, is that on 28.05.2025 at about 0450 hours, complainant HC Liaquat Ali along with subordinate staff, while on patrolling duty near Government Degree College, Sector 11-I, North Karachi, allegedly intercepted two persons riding a motorcycle without a registration plate. It is alleged that the riders did not stop and instead opened fire upon the police party with intent to kill. The police retaliated in self-defense, injuring one of the riders, later identified as Muhammad Babul, while the other, Akbar S/o. Tufail, escaped. From the injured accused, police allegedly recovered one unlicensed 9MM pistol loaded with one live round, two mobile phones, cash of Rs.120/-, and a motorcycle later found to be stolen. Consequently, the present FIR was lodged under Sections 353, 324, 34 PPC and Section 23(1)(A) of the Sindh Arms Act, 2013.

3. Learned counsel for the Applicant contends that the Applicant has been falsely implicated due to malafide intention and ulterior motives. He submits that no police official sustained any injury as a result of the

alleged firing, hence the allegation of firing upon the police party appears ineffective and doubtful, calling for further inquiry under Section 497(2) Cr.P.C. It is further argued that the alleged incident occurred in a densely populated area, yet no independent witness was associated, which is in clear violation of Section 103 Cr.P.C. The alleged empties were not sent to the Forensic Science Laboratory for comparison, and the recovered mobile phones were never subjected to any identification proceedings before a Magistrate. Learned counsel submits that the entire case rests on the testimony of police officials, which without corroboration cannot be implicitly relied upon at the bail stage. He further submits that the Applicant is not a previous convict, nor a hardened or habitual offender, and is willing to furnish solvent surety to the satisfaction of the Court. He lastly contends that the mere registration of multiple criminal cases, without conviction by a competent Court of law, cannot be treated as a ground to deny bail, as the presumption of innocence continues until proven guilty. Lastly, the learned counsel prays for grant of bail.

4. Conversely, the learned Additional Prosecutor General, Sindh, has opposed the bail application on the ground that the Applicant was apprehended at the scene of the occurrence and an unlicensed weapon was recovered from his possession. It is further alleged that the Applicant is involved in several criminal cases and has a record of similar nature, hence does not deserve the concession of bail at this stage. Lastly, the learned A.P.G. prays for dismissal of bail.

5. I have heard the learned counsel for both sides and perused the record with due care and caution. It is not disputed that no injury was sustained by any police official during the alleged encounter, and the firing attributed to the Applicant is alleged to be ineffective. The element of intent or attempt to commit murder, therefore, requires further inquiry into the actual circumstances of the occurrence. In similar circumstances, in the case of **Jahanzeb and others v. The State through A.G. Khyber Pakhtunkhwa, Peshawar and another (2021 SCMR 63)**, the Honourable Supreme Court of Pakistan held that: *“Perusal of the aforesaid provision reveals the intent of the legislature disclosing pre-condition to establish the word “guilt” against whom accusation is levelled has to be established on the basis of reasonable ground, however, if there exists any possibility to have a second view of the material available on the record then the case advanced against whom allegation is levelled is entitled for the relief in the spirit of section 497(2), Cr.P.C. In the instant case, as no overt act is ascribed to the petitioners except the allegation of ineffective firing not supported by any recovery of weapon and as*

such the recovery of crime empties from the place of occurrence has no legal sanctity, therefore, the facts and circumstances narrated above brings the case of the petitioners of further inquiry falling within the ambit of section 497(2), Cr.P.C. entitling them for the concession of bail". The alleged incident took place in a thickly populated and commercial area, yet no independent person was cited as a witness of recovery or incident, despite such persons being readily available. The non-association of independent witnesses casts a shadow on the prosecution story at this stage. Furthermore, the forensic link between the recovered weapon and the alleged offence is missing, as the empties have not been sent for FSL examination, and the identification of recovered property (i.e., mobile phones) was not conducted before a Magistrate. These material omissions prima facie bring the case within the ambit of further inquiry under Section 497(2) Cr.P.C. The prosecution's plea that the Applicant is a habitual offender also does not carry much weight in the absence of any conviction or certified record of previous cases. It is settled law that mere registration of a number of criminal cases against an accused, without any verdict of conviction from a competent court, cannot by itself be treated as proof of guilt or habitual criminality, nor can it be a valid ground for refusal of bail. The principle of presumption of innocence remains applicable until guilt is established through due process of law. 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)".*

6. In view of the above circumstances, the nature of allegations, and deficiencies in the investigation, the case against the Applicant requires further inquiry within the contemplation of Section 497(2) Cr.P.C. The prosecution has not shown any exceptional grounds that would justify denial of bail at this stage. Consequently, this Criminal Bail Application is allowed. The Applicant, Muhammad Babul son of Abul Hussain, is admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned Trial Court.

7. The trial Court is directed to expedite the proceedings and conclude the trial within a reasonable period, without being influenced by any observation made herein, which are tentative in nature and confined to the disposal of this bail application. These are the detailed reasons for the short order announced on 23.10.2025.

JUDGE

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