

**HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD****Cr. Bail Application No.S-1320 of 2025.****Cr. Bail Application No.S-1321 of 2025.**

Applicant / Accused                      Farooque **through** Mr. Safdar Ali Charan,  
Advocate (in both Bail Applications).

The State                                      Through Mr. Siraj Ahmed Bijarani, Assistant  
Prosecutor General (in both Bail Applications).

Date of hearing:                              02.03.2026.

Date of decision:                              02.03.2026.

**ORDER**

**RIAZAT ALI SAHAR, J.-** These Cr. Bail Applications arise out of two separate FIRs; the main case bearing Crime No.299 of 2025 registered under Sections 324 and 353 PPC, and an off-shoot case bearing FIR No.300 of 2025 registered under Section 25 of the Sindh Arms Act, 2013 which have been registered at Police Station A-Section, Dadu while common question of law is involved therein, therefore, the listed Bail Applications are being decided together through this single order. The earlier bail applications of the applicant were rejected by the learned trial Court vide two separate orders of even date i.e., 21.10.2025.

2. It is alleged by the prosecution that on 11.10.2025 at about 2100 hours, the applicant, along with his alleged accomplices namely Murtaza son of Behram Jamali and Altaf son of Ghulam Muhammad Mastoi, was present at the place of occurrence while being armed. The police party, after disclosing their identity, directed the accused persons to surrender; however, instead of complying with such direction, they allegedly resorted to firing upon the police officials and thereby obstructed them in the lawful discharge of their official duties. In response and in the exercise of self-defence, the police party is stated to have returned the fire. It is further alleged that after the exchange of fire, the present applicant surrendered himself before the police, whereas the remaining two accused managed to escape from the scene. The applicant was subsequently arrested by the

police, and it is alleged that a 30-bore pistol along with an empty magazine was recovered from his possession.

3. Learned counsel for the applicant contended that as per prosecution story, the alleged encounter between the police and the accused party lasted for about two minutes; however, none of the police officials sustained even a scratch, which, according to him, does not appeal to a prudent mind. It is further argued that the alleged place of incident is a busy public link road leading to several villages; yet, the prosecution failed to associate any independent witness from the locality, which creates doubt regarding the occurrence of the alleged incident. Learned counsel further submitted that the allegation of ineffective firing attributed to the applicant, in the absence of any injury or demonstrated intention, does not satisfy the essential ingredients of Section 324 PPC. Even otherwise, it is well settled that mere firing without causing injury or without proof of intention to commit qatl-i-amd, does not ipso facto attract the provisions of Section 324 PPC, the applicability whereof is yet to be determined at trial after recording evidence.

4. Conversely, learned A.P.G. submits that the applicant/accused is nominated in the FIR with a specific role, as he was allegedly found present at the place of occurrence along with his co-accused, and they opened fire upon the police party in order to prevent them from discharging their lawful duties. Therefore, according to him, Section 324 PPC has rightly been applied in the given circumstances. He prayed for dismissal of the instant Criminal Bail Applications.

5. Heard learned counsel for the parties and perused the record.

6. It appears to be a case of alleged ineffective firing attributed to the accused party, including the present applicant. Although the prosecution asserts that the encounter continued for approximately two minutes, it is noteworthy that no injury whatsoever was sustained by any member of the police party, while the applicant was apprehended at the spot. Such circumstances prima facie raise questions regarding the manner and nature of the alleged occurrence, which can only be properly examined and

determined after the recording of evidence during the course of trial. At this stage, the guilt or innocence of the applicant is yet to be established.

7. It is further noted that the investigation has already been completed and the case has been formally challaned; therefore, the custodial interrogation of the applicant is no longer required by the investigating agency. It is a settled principle of criminal jurisprudence that the liberty of a person cannot be curtailed without lawful justification, nor can detention be used as a form of punishment prior to conviction. The applicant has remained behind bars since the date of his arrest, i.e., 11.10.2025, and his continued incarceration at this stage would serve no meaningful purpose for the prosecution.

8. Moreover, all the prosecution witnesses appear to be police officials, and no sincere effort seems to have been made by the investigating agency to associate any independent witness from the locality to witness the alleged occurrence or recovery. In such circumstances, the possibility of the applicant tampering with the prosecution evidence appears to be remote. As regards the alleged recovery of a pistol from the possession of the applicant, whether such recovery was actually effected in the manner alleged by the prosecution is itself a matter which requires deeper scrutiny and proper appreciation of evidence during the trial, and thus calls for further inquiry.

9. In the circumstances of the present case, the continued incarceration of the applicant is not likely to serve any useful purpose, particularly when the allegations contained in the F.I.R. are yet to be substantiated through evidence. At this pre-trial stage, prolonged detention of the applicant would amount to punishment before conviction, which is neither envisaged by law nor consistent with the settled principles governing the grant of bail, especially where the matter warrants deeper examination during the trial.

10. In view of the foregoing, *prima facie*, the applicant succeeded in making out case(s) for **further inquiry**, as contemplated under **Sub-Section (2) of Section 497 of the Code of Criminal Procedure (Cr.P.C.)**. Consequently, the instant **Criminal Bail Applications** were **allowed** in terms of my **short order dated 02.03.2026**. These are the reasons for the same.

11. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature, therefore, the trial Court shall not be influenced in any manner whatsoever.

**JUDGE**

*Ali*