

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. D-122 OF 2025

BEFORE:

Mr. Justice Amjad Ali Bohio, J.

Mr. Justice Khalid Hussain Shahani, J.

Applicant	:	Siddique s/o Bahawal, by caste Mahar, <i>Through</i> Mr. Ajeebullah Junejo, Advocate
The State	:	<i>Through</i> Mr. Aftab Ahmed Shar, Asst. P.G
Date of hearing	:	03.12.2025
Date of Short order	:	03.12.2025
Reasons recorded on	:	04.12.2025

O R D E R

KHALID HUSSAIN SHAHANI, J. – By our short order dated 03.12.2025, we had admitted the applicant to post-arrest bail. The following are the reasons for the said order. The applicant/accused sought post-arrest bail in Crime No. 105/2025 registered at Police Station Baiji Shareef, District Sukkur, for offenses punishable under Sections 368, 324, 353, 148, 149 PPC, read with Sections 3/4 of the Explosive Substances Act and Sections 6/7 of the Anti-Terrorism Act, 1997. Prior to this, the applicant approached the learned Anti-Terrorism Court-I, Sukkur, with a similar prayer, which was declined vide order dated 08.10.2025.

2. Briefly stated, the facts of the prosecution case, as per the FIR lodged by SIP/SHO Abdul Shakoor Lakho, are that on 15.07.2025, the police party received spy information regarding the presence of notorious criminal Ajeeb Mahar and his gang in the sugarcane crops near Khan Shah Goth, purportedly shifting an abductee, Mashooque Qazi. The police party reached the spot at 04:30 hours. It is alleged that an encounter ensued between the police and ten accused persons, which lasted for about 15 to 20 minutes. During the encounter, the police fired 150 rounds. Consequently, four accused, including the present applicant Siddique Mahar, were arrested in an injured condition, having sustained bullet injuries on their legs/knees. The

police claimed to have recovered a T.T Pistol with an empty magazine and five live bullets from the possession of the present applicant. Furthermore, the abductee, Mashooque, was allegedly recovered from the spot, tied with a chain.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in this case by the police to show efficiency. He argued that the story of the encounter is highly doubtful and appears to be managed, as despite an alleged exchange of fire lasting 15-20 minutes with sophisticated weapons, not a single police official sustained even a minor scratch. He further submitted that the injuries sustained by the applicant and co-accused are on their legs/knees, which are characteristic of a "managed" encounter. Crucially, learned counsel pointed out that the alleged abductee, Mashooque, in his statement recorded under Section 164 Cr.P.C., did not support the prosecution's version regarding the encounter or the identity of the accused; rather, he stated that the culprits had left him and fled prior to the police's arrival. Learned counsel argued that this contradiction makes the case one of further inquiry under Section 497(2) Cr.P.C.

4. Conversely, the learned Additional Prosecutor General for the State opposed the grant of bail, arguing that the applicant was arrested on the spot in an injured condition following a police encounter. He submitted that an unlicensed weapon was recovered from the applicant and that he is involved in a heinous offense falling within the prohibitory clause of Section 497 Cr.P.C.

5. We have heard the arguments and perused the record with the assistance of learned counsel.

6. Tentative assessment of the record reveals several features that make the case against the present applicant one of further inquiry. According to the FIR, the encounter lasted for 15 to 20 minutes with heavy firing from both sides. It is surprising that while the applicant and three co-accused sustained specific bullet injuries on their legs/knees, the police party, despite being exposed to firing from 10 accused persons, remained completely unscathed. This circumstance alone casts a shadow of doubt over the genuineness of the encounter and suggests that the facts may not be as straightforward as narrated in the FIR. The cornerstone of the prosecution's case is the recovery of the abductee, Mashooque, from the custody of the accused during the encounter. However, a perusal of the 164 Cr.P.C. statement of the victim/abductee (available on record) shows that he has not fully supported the prosecution story. He did not identify the present applicant as one of his captors before the learned Magistrate. This material contradiction between the ocular account in the FIR and the statement of the star witness (the abductee) creates a significant dent in the prosecution case, the benefit of which must be extended to the accused even at the bail stage. The medical evidence indicates that the applicant sustained a firearm injury on his leg. The specific location of injuries on the legs of all arrested accused raises questions regarding the manner of arrest and *prima facie* supports the defense plea of a managed engagement. While the applicant is alleged to have fired at the police, no specific injury to any police official is attributed to his firing. The allegation is general in nature, shared with other co-accused.

7. It is a settled principle of law that where there are two versions of the incident or where the prosecution story suffers from inherent defects creating reasonable doubt, the accused is entitled to the concession of bail.

The question of whether the applicant was actually involved in the encounter or whether the recovery was foisted upon him can only be determined after the recording of evidence during the trial. At this stage, the case of the applicant clearly falls within the ambit of Section 497(2) Cr.P.C, calling for further inquiry into his guilt.

8. The applicant is behind bars since his arrest, and the investigation is complete. No useful purpose would be served by keeping him incarcerated for an indefinite period.

9. For the foregoing reasons, we found merit in this application. Consequently, by our short order dated 03.12.2025, the applicant was admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

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