

IN THE HIGH COURT OF SINDH AT KARACHI

**Criminal Bail Application No.1523 of 2025
Criminal Bail Application No.1805 of 2025**

Applicants : Jam Mushtaque Ahmed @ Mukhtar
Through: Mr. Muhammad Nasir
Advocate (B.A. No.1523 of 2025)

Muhammad Younas @ Qari,
Through: Mr. Imdad Ali Malik,
advocate (B.A. No.1805 of 2025)

Complainant : Fazal Subhan, Through:
Mr. Saifullah, advocate.

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

Date of hearing : 27.11.2025

Date of Order : 27.11.2025

O R D E R

Jan Ali Junejo, J:-- Through this common order, this Court proposes to decide the instant post-arrest criminal bail applications filed under Section 497 Cr.P.C. by Applicants/Accused: (i) Muhammad Younas @ Qari (Criminal Bail Application No. 1805 of 2025) and (ii) Jam Mushtaque Ahmed @ Mukhtar (Criminal Bail Application No. 1523 of 2025), seeking their release on bail in case arising out of FIR No. 194 of 2025 registered at Police Station SITE-A, District Keamari, Karachi for offences punishable under Sections 395, 397, 324, 34 PPC. Both Applicants had earlier been declined bail by the learned XIIth Additional Sessions Judge, Karachi West, vide orders dated 17.06.2025 (in the case of Applicant Muhammad

Younas @ Qari) and 27.05.2025 (in the case of Applicant Jam Mushtaque Ahmed @ Mukhtar), which orders are under challenge herein.

2. As per the FIR lodged by complainant Fazal Subhan, on 23.04.2025 at about 12:30 p.m., six unknown persons on three motorcycles allegedly committed a robbery at Sawat Jewelers, Sonar (Goldsmith) Gali, SITE Area, Karachi, at gunpoint, snatching approximately 09 tolas of gold; while fleeing, the culprits resorted to aerial firing causing firearm injuries to two passersby. Two alleged culprits, namely Mehmood Khan and Muhammad Rafiq, were apprehended at the spot in injured condition and unlicensed pistols were allegedly recovered from them along with a motorcycle. The present Applicants were not named in the FIR nor arrested from the spot; their alleged implication surfaced subsequently, regarding Applicant Younas @ Qari, he was arrested later from Jinnah Postgraduate Medical Centre in injured condition; regarding Applicant Jam Mushtaque @ Mukhtar, his name emerged on the disclosure of a co-accused during police custody and he claims he was already in police custody in another case (FIR No. 200/2025 of PS Pakistan Bazar) at the relevant time.

3. Learned counsel for Applicant Muhammad Younas @ Qari contended that the Applicant has been falsely implicated; he is neither nominated nor described in the FIR, and no specific role is

assigned; he was not apprehended from the crime scene; no recovery has been effected from his possession; the identification parade has been declined by the learned Magistrate; the only alleged connecting material is the disclosure of co-accused, which is a weak, inadmissible piece of evidence at bail stage and carries no probative value unless corroborated; the Applicant himself sustained three firearm injuries on his abdomen while riding his motorcycle and was found/treated at JPMC wherefrom he was formally shown arrested; the investigation is incomplete and no incriminating material independent of custodial disclosures exists; case calls for further inquiry under Section 497(2) Cr.P.C. The learned counsel prayed that, in the circumstances, and applying the settled principle that bail is a rule and jail an exception, post-arrest bail be granted.

4. Learned counsel for Applicant Jam Mushtaque Ahmed @ Mukhtar argued that the Applicant is innocent and has been roped in later without lawful basis; he is not named in the FIR, no role or description is attributed, and no identification parade was held; nothing was recovered from his possession; the alleged implication is founded upon the disclosure of a co-accused (Younas @ Qari) made in police custody, which is inadmissible under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984; crucially, at the time of the occurrence (23.04.2025 at 12:30 p.m.), the Applicant was already in police custody in FIR No. 200/2025 of PS Pakistan Bazar, and was remanded to judicial custody on 24.04.2025, thus his presence at the

scene is *prima facie* implausible; the prosecution failed to associate independent witnesses in a thickly populated locality and has offered no explanation for the delay between incident and FIR beyond routine; given these circumstances, the matter squarely falls within further inquiry under Section 497(2) Cr.P.C. and the Applicant is entitled to the concession of bail. Prayer for grant of post-arrest bail was made.

5. Learned counsel for the Complainant vehemently opposed the applications, submitting that the offences alleged are heinous and fall within the prohibitory clause, involving armed robbery and firearm injuries to innocent passersby; the Applicants are members of the same criminal enterprise, acting with common intention; two co-accused were apprehended at the spot with weapons and incriminating articles, lending credence to the prosecution case; the disclosure of the Applicants' names by arrested co-accused and the overall sequence of events connect them with the occurrence; the alarming law-and-order situation demands a strict view and the grant of bail would embolden such gangs; lastly, the learned counsel to dismissal bail applications.

6. Learned APG adopted the complainant's submissions and added that the occurrence is well-documented, two accused were apprehended at the spot with illicit arms, and the Applicants are shown as companions in a concerted act of dacoity attracting

Sections 395/397 PPC; given the gravity, societal impact, and injuries caused, the Applicants do not deserve discretion in bail; co-accused's bail(s) had earlier been dismissed by the trial Court; investigation is progressing and custody is warranted to ensure fair trial and prevent tampering; the applications be dismissed.

7. I have heard the learned counsel for the parties and examined the available record. At the bail stage, the Court undertakes a tentative assessment without embarking upon deeper appreciation of evidence. On tentative assessment, it appears that the Applicant Muhammad Younas @ Qari is admittedly not named in the FIR and was not apprehended at the spot. His implication appears to be primarily on the basis of disclosure made by co-accused. Standing alone, such material is weak and inadmissible at this stage, and no recovery is shown to have been effected from him. It is further not disputed that the identification parade was declined by the learned Magistrate; consequently, no formal identification linking him with the occurrence is available. The record reflects that he had sustained firearm injuries and was arrested from JPMC. Whether he was a participant in the alleged offence or a bystander/victim of a separate occurrence is a matter requiring deeper probe at trial. In similar circumstances, the Honourable Supreme Court of Pakistan in the case of *Muhammad Rafique v. The State (1997 SCMR 412)* has held that: "*Fact that the petitioner is accused in a number of cases of robbery, is not sufficient to deprive him of his liberty. It has not come on record,*

as to, why identification test of the petitioner through eye-witnesses was not held when his name did not appear in the F.I.R. Mere production by the petitioner before police of some cash alleged to have been obtained by robbery, in absence of any other evidence. In this respect the observations made in the case of *Ishaq Masih v. The State* (1993 SCMR 1322) are relevant". Similar view has been taken by this Court in Case of *Asif v. The State* (2012 YLR 211).

8. Perusal of record further shows that the Applicant Jam Mushtaque Ahmed @ Mukhtar is also not named in the FIR, no role or description is attributed to him therein, and he was not arrested from the scene. His implication surfaced solely through disclosure by co-accused while in police custody, which, in the absence of corroboration by admissible evidence, is of no legal value against him at this stage. No test identification parade was conducted, nor is any incriminating recovery shown to have been effected from him. The applicant has specifically pleaded that he was arrested in FIR No. 200/2025 of P.S. Pakistan Bazar on 22.04.2025 and was remanded to judicial custody on 24.04.2025. Prima facie, this plea requires verification and adjudication at trial; for present purposes, it introduces a reasonable doubt regarding his presence at the crime scene at about 12:30 p.m. on 23.04.2025.

9. In the case of both applicants, the factors of non-nomination, absence of a test identification parade, lack of recovery, and the attendant arrest/custody circumstances collectively create

reasonable doubt and bring their cases within the ambit of “further inquiry” as contemplated under Section 497(2), Cr.P.C.

10. The offences alleged are undoubtedly grave and have societal impact, involving robbery with firearms and injuries. However, gravity alone does not eclipse the statutory mandate of Section 497(2) Cr.P.C. where objective indicators create reasonable doubt regarding an accused’s participation. The principle that “bail is a rule and refusal is an exception” remains applicable, particularly where identification and linkage are tenuous at the tentative stage. Two co-accused were apprehended at the scene with alleged recoveries. The present Applicants stand on a distinct footing: they were not named, not arrested at the spot, there is no TIP, and their implication is anchored in custodial disclosures. This differentiation is relevant for bail purposes without commenting on the merits against any accused.

11. In view of the foregoing discussion, this Court is of the tentative view that the cases of both Applicants, namely, (i) Muhammad Younas @ Qari and (ii) Jam Mushtaque Ahmed @ Mukhtar, fall within the ambit of “further inquiry” under Section 497(2) Cr.P.C.

12. Accordingly, both Criminal Bail Applications are allowed. The Applicants/Accused: Muhammad Younas @ Qari son of Noor-ul-Islam (Crl. Bail Appl. No. 1805 of 2025), and Jam

Mushtaque Ahmed @ Mukhtar son of Ghulam Muhammad (Crl. Bail Appl. No. 1523 of 2025), are admitted to post-arrest bail in case arising out of FIR No. 194 of 2025, registered at Police Station SITE-A, District Keamari, Karachi, under Sections 395, 397, 324, 34 PPC, subject to each furnishing: Solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand only), and Personal Recognizance (P.R.) bond in the like amount, to the satisfaction of the learned trial Court. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. These are the detailed reasons of the Short Order dated: 27.11.2025.

JUDGE