

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2512 of 2025

Applicant : Abdul Raziq son of Soorat Khan through M/s. Rana Muhammad Arshad and Hamood ur Rehman Khan Niazi, Advocates

The State : Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh along with ASI-Faisal of Police Station SSHIA, Karachi

Date of hearing : 18.11.2025

Date of decision : 18.11.2025

O R D E R

Jan Ali Junejo, J.- The applicant seeks grant of post-arrest bail in Crime No. 945/2025, registered under Sections 324/34 PPC at Police Station S.S.H.I.A. (Site Superhighway Industrial Area), Karachi. It is pertinent to note that the applicant had earlier approached the Court of learned IVth Additional Sessions Judge, Malir, Karachi, through Criminal Bail Application No. 4020 of 2025, which was dismissed vide order dated 15-09-2025. Hence, the present bail application before this Court.

2. Brief facts, as disclosed in the FIR, reveal that the complainant Manzoor Ahmed lodged the report on 08-08-2025 stating that he was informed telephonically that his nephew Muhammad Javed had sustained a firearm injury near Taj Petrol Pump, Scheme-33, Karachi, while grazing cattle. Upon reaching Civil Hospital Karachi, the complainant learned from relatives that two unknown persons riding a motorcycle had fired upon the victim due to unknown enmity and fled away. Consequently, FIR was registered against unknown accused persons. During investigation, the applicant, who had been arrested in another case, was implicated in the present matter solely on the basis of an alleged disclosure statement recorded by the police.

3. Learned counsel for the applicant argues that the applicant is innocent and has been falsely implicated in the present case by the police with ulterior motives. He contends that the FIR was registered against

unknown persons and the name, description, or features of the applicant do not appear anywhere in the FIR. He argues that the complainant is admittedly not an eye-witness and his statement is purely hearsay, which carries no legal weight. He contends that no identification parade was conducted before a Magistrate despite the fact that the applicant was available in custody, which creates serious doubt about his identity. He argues that no firearm or any other incriminating article has been recovered from the possession or pointation of the applicant. He contends that the only material against the applicant is the alleged statement recorded before the police, which is hit by Articles 38 & 39 of the Qanun-e-Shahadat Order, 1984 and has no evidentiary value in the eyes of law. He argues that the entire case is based on suspicion and conjecture and thus squarely falls within the ambit of further inquiry under section 497(2) Cr.P.C. He contends that the applicant has already been granted bail in all other cases and is neither a previous convict nor a hardened criminal. He finally argues that the applicant is ready to furnish surety to the satisfaction of the Court and prays that the applicant be admitted to post-arrest bail.

4. Learned Additional P.G. for the State, while opposing the bail application, argues that the injury sustained by the victim was inflicted on a vital part of the body and was dangerous in nature. She contends that the applicant has confessed his involvement during the course of investigation. She argues that the offence under section 324 PPC falls within the prohibitory clause of section 497 Cr.P.C. and, therefore, the applicant does not deserve any indulgence. She contends that the applicant is a hardened criminal and was also arrested in another heinous offence. She finally argues that if the applicant is released on bail, he may tamper with the prosecution evidence and influence the witnesses, and therefore prays for dismissal of the bail application.

5. I have heard the learned counsel for the parties and carefully perused the available record. On a tentative assessment of the material on record, it emerges that the FIR was admittedly lodged against unknown persons. The complainant is not an eye-witness of the alleged occurrence, and the entire prosecution case is based upon information received from others. No identification parade was conducted despite the applicant being available in custody. No recovery of weapon or any incriminating article has been effected from the applicant. The applicant has been nominated in the present case solely on the basis of an alleged disclosure statement made before the police. It is a settled principle of law that a confession made before police has no legal sanctity unless it leads to recovery of

some incriminating article and is corroborated by independent evidence. Mere disclosure statement, by itself, has no evidentiary value under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984. The prosecution case thus suffers from serious infirmities, as neither ocular account nor independent corroboration is available to connect the applicant with the commission of the alleged offence. The identity of the applicant remains doubtful in the absence of a lawful identification parade. 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)***.

6. It is by now well-established that where the identity of the accused is doubtful, and no recovery or direct evidence is available, the case calls for further inquiry under section 497(2) Cr.P.C. Even in offences falling within the prohibitory clause, bail can be granted where reasonable doubt exists about the involvement of the accused.

7. The learned trial Court has mainly relied upon the alleged police confession and the seriousness of the charge while dismissing the earlier bail application. However, at the bail stage, the rule of tentative assessment applies, and where the prosecution evidence appears to be deficient in material particulars, benefit must go to the accused. In the present case, the cumulative effect of the facts that the FIR names no accused, the complainant is not an eye-witness, no identification parade has been held, no recovery has been effected, and the implication is solely based on an inadmissible police confession, creates reasonable doubt regarding the involvement of the applicant.

8. For the foregoing reasons, I am of the considered view that the prosecution has failed to establish reasonable grounds for believing that the applicant is guilty of the alleged offence at this stage. The case of the applicant squarely falls within the purview of further inquiry as contemplated under section 497(2) Cr.P.C.

9. For the reasons recorded hereinabove, the instant bail application is allowed. The applicant Abdul Raziq son of Soorat Khan is admitted to post-arrest bail in Crime No. 945/2025, registered under Sections 324/34 PPC at Police Station S.S.H.I.A, Karachi, subject to furnishing: Solvent surety in the sum of Rs.100,000/-, and Personal bond in the like amount, to the satisfaction of the learned Trial Court.

10. 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. The application stands allowed in the above terms. These are the detailed reasons of the Short Order dated: 18-11-2025.

JUDGE

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