

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 2724 of 2025.

Cr. Bail Application No. 2725 of 2025.

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Cr. Bail Application No. 2726 of 2025.

Applicants : Mohammad Bachal, Mehboob Ali, Morio, Mithan, Mukhtiar Ali, Papu alias Allah Bux, Altaf alias Altaf Hussain, Gulzar Ali, Bijjar, Niaz, Shafi alias Shafi Muhammad, Mumtaz, Anwar alias Muhammad Anwar through Mr. Manzoor Hussain Khoso, Advocate in all three matters.

Respondents : The State through Mr. Mumtaz Ali Shah, A.P.G. Sindh

Date of hearing : 10.02.2026.

Date of order : 10.02.2026.

ORDER.

TASNEEM SULTANA, J. :- Through this common order, I propose to dispose of the three connected Criminal Bail Applications, whereby the applicants, namely, Mohammad Bachal, Mehboob Ali, Morio, Mithan, Mukhtiar Ali, Papu alias Allah Bux, Altaf alias Altaf Hussain, Gulzar Ali, Bijjar, Niaz, Shafi alias Shafi Muhammad, Mumtaz, Anwar alias Muhammad Anwar, seek pre-arrest bail arising out of Crime No. 36 of 2025 registered at Police Station Bannu for offences under Sections 365, 506/2, 353, 341, 147, 148 and 149, P.P.C. Their earlier pre-arrest bail applications, bearing Nos. 567 and 686 of 2025, were declined by the learned Additional Sessions Judge-VII, Sujawal, vide orders dated 01.10.2025; hence, these applications for the same concession.

2. Brief facts of the prosecution case are that on 28.06.2025 at about 1550 hours, the complainant SIP Iqbal Ahmed Kandhro, CIA Centre Sujawal, during patrolling apprehended accused Khalid from Bannu Daroo Road and recovered gutka from his possession, whereafter he was taken to Police Station Bannu and FIR No. 35 of 2025 was registered against him. Thereafter, while returning towards CIA Centre Sujawal, near Mawali Mori on Bannu Daroo Road, about 50 to 60 persons intercepted the police party, out of whom six persons, namely Mir Hassan son of Noor Muhammad,

Mashooq son of Noor Muhammad, Haji son of Ismail, Ali Sher son of Dodo Magsi, Gulzar son of Ali Magsi and Subhan son of Ramzan Magsi, were armed with pistols and sticks, while about 40/45 unknown persons were also present. The said persons demanded release of the arrested accused and, upon refusal, allegedly threatened the police officials, pointed weapons and forcibly took away the CIA Incharge from the vehicle, and in furtherance of their common intention, obstructed the police party, extended threats and kidnapped the CIA Incharge, whereafter this FIR was lodged.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated in this case; that out of the applicants in both matters, Mohammad Bachal, Mehboob Ali, Morio, Mithan, Bijjar and Niaz are not nominated in the F.I.R. and have subsequently been roped in the case along with the nominated accused with mala fide intentions and ulterior motives; that the allegations against all the applicants are general in nature, pertaining to an unlawful assembly of 50–60 persons, with no specific role attributed to any of them; that the alleged abductee was not recovered from the possession of the applicants and Section 365, P.P.C. has been misapplied, as the police falsely alleged abduction of the C.I.A. Incharge and managed a fabricated recovery not effected from the possession of the applicants; that there is no material available on record to connect the applicants with the commission of the alleged offence; that all the witnesses are police officials and are, therefore, interested and partisan; that no private person was associated to witness the occurrence despite the incident having taken place at a public place during daytime; and that the alleged offence does not fall within the prohibitory clause of Section 497, Cr.P.C.; hence, the case against the applicants calls for further inquiry and they are entitled to the concession of bail.

4. Conversely, learned A.P.G opposed the bail applications on the ground that sufficient material is available on record to connect them with the commission offence.

5. Heard. Record perused.

6. Perusal of the record reflects that all the applicants in Cr. B.A No. 2724 of 2025 as well as applicants Bijjar and Niaz, who have filed Cr. B.A No.2725 of 2025, are not nominated in the F.I.R.; however, they were implicated in the case subsequently during investigation. It appears that the alleged occurrence involved a large unlawful assembly of 50–60 persons, and the role attributed to all the accused, including the present applicants, is general in nature, without specifying any overt act on their part. All the

prosecution witnesses are police officials, and despite the occurrence having taken place during daytime, no private person was associated to act as mashir or witness to attest the veracity of the occurrence, which prima facie reflects non-compliance of Section 103, Cr.P.C. Besides, it is also observed that recovery of the alleged abductee, i.e., C.I.A. Incharge, was not effected from the possession of the applicants, who have denied the allegation of abduction and asserted that the police managed a false abduction and recovery; thus, the applicability of Section 365, P.P.C. is to be determined at the time of trial.

7. The record further reflects that in the connected case arising out of FIR No. 38 of 2025 of Police Station Bannu, lodged in respect of the incident of ineffective firing upon the police party, the accused, including the applicants in connected Cr. B.A No. 2726 of 2025, have been acquitted by the learned trial Court vide judgment dated 02.02.2026. Such outcome in the connected case has created doubt regarding the veracity of the prosecution case against the applicants in the present case as well and calls for further inquiry within the meaning of Section 497(2), Cr.P.C. It is well-settled that where a case calls for further inquiry into the guilt of an accused within the meaning of Section 497(2), Cr.P.C., the accused becomes entitled to the concession of bail as of right. Reliance is placed on the case of **Salman Mushtaq & others v. The State through P.G Punjab and another (2024 SCMR 14)**.

6.....While considering the grounds agitated for enlargement on bail, whether pre-arrest or post-arrest, the atrociousness, viciousness and/or gravity of the offence are not, by themselves, sufficient for the rejection of bail where the nature of the evidence produced in support of the indictment creates some doubt as to the veracity of the prosecution case. Therefore, where, on a tentative assessment, there is no reasonable ground to believe that the accused has committed the offence, and the prosecution case appears to require further inquiry, then in such circumstances the benefit of bail may not be withheld as a punishment to the accused.....

8. Furthermore, the offences do not fall within the prohibitory clause of Section 497, Cr.P.C. thereby making it a matter in which grant of bail is a rule and refusal an exception. Reliance is placed in the case of **Tariq Bashir and Others Versus The State (PLD 1995 Supreme Court 34)** and **Muhammad Tanvir Vs. State (PLD 2017 Supreme Court 733)**.

9. In view of the above facts and circumstances, learned counsel for the applicants has succeeded in making out a case for further inquiry as

envisaged under Section 497(2), Cr.P.C. Consequently, the instant bail applications are allowed and the interim pre-arrest bail granted to the applicants, namely, Mohammad Bachal, Mehboob Ali, Morio, Mithan, Mukhtiar Ali, Papu alias Allah Bux, Altaf alias Altaf Hussain, Gulzar Ali, Bijjar, Niaz, Shafi alias Shafi Muhammad, Mumtaz, Anwar alias Muhammad Anwar, vide order dated 09.10.2025, are confirmed on the same terms and conditions. These are the reasons for my short order dated 10.02.2025.

10. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial.

JUDGE

Nadeem