

IN THE HIGH COURT OF SINDH AT KARACHI.

Cr. Bail Applns. No. 2511 and 3298 of 2025.

Applicant : Arsalan through Mr. Makhdoom Aamir Ali, Advocate.
Applicant : Mohammad Hussain through Mr. Abdul Samad, Advocate.
Complainant : Abid Hussain through Mr. Farrukh Nawaz Gandapur, Advocate.
Respondent : The State through Ms. Rubina Qadir, Addl. P.G.
Date of hearing : 16.3.2026.
Date of order : 16.3.2026.

ORDER.

TASNEEM SULTANA, J.— Through this common order, I intend to dispose of the present criminal bail applications filed by applicants Arsalan and Muhammad Hussain, who seek post-arrest bail emanating from F.I.R. No.759/2025 registered at Police Station Shahrah-e-Faisal, Karachi, under Sections 170, 171, 397 and 34 PPC. Their post-arrest bail applications having earlier been dismissed by the learned XIIIth Additional Sessions Judge, Karachi East vide orders dated 12.09.2025 and 25.09.2025 respectively, the applicants have approached this Court for the same relief.

2. Brief facts of the prosecution case are that on 17.07.2025 at about 1500 hours, complainant Abid Ahmed was returning towards his residence situated at Gulshan-e-Jamal, Karachi, when he reached the back lane of Jamal Park, a grey coloured Suzuki Swift bearing registration No.BDE-218 intercepted him. Three persons wearing police uniforms alighted from the vehicle. One of them pointed a .30 bore pistol while, under the pretext of search, the accused persons allegedly snatched cash of Rs.10,000/- and an I-Tel keypad mobile phone bearing SIM No.03119552255 having IMEI Nos.354683170799907 and 354683170799899. In the meantime, a police mobile headed by ASI Aashiq Ali arrived at the spot whereupon the complainant informed the police officials regarding the occurrence. Thereafter, police officials along with the complainant immediately pursued the accused persons and intercepted the aforesaid vehicle near K.I.A. Showroom, Gulshan-e-Jamal. Three accused namely Ali Javed along with present applicants Arsalan and Muhammad Hussain were apprehended, whereas one accused namely Hasan escaped from the spot. Upon search, one 30-bore pistol with loaded magazine and the snatched mobile phone were allegedly recovered from co-

accused Ali Javed, whereas police uniforms, caps and dresses were recovered from the vehicle. Subsequently, the present crime was registered.

3. Learned counsel for applicant Arsalan contended that neither any recovery of weapon, robbed property nor incriminating article has been effected from his possession; that the only allegation attributed to him is that of driving the vehicle, which by itself does not establish criminal liability; that the applicant was unlawfully picked up by police officials prior to registration of the present case and in this regard reliance has been placed upon CCTV footage and certain photographs allegedly showing prior detention of the applicants as well as custody of vehicle before registration of FIR; and that identification made during police chase is doubtful and unreliable. Similarly, learned counsel for applicant Muhammad Hussain argued that no specific overt act has been assigned to him; that no recovery or incriminating material has been attributed to him; and that the applicants are innocent and have falsely been implicated in the present matter.

4. Conversely, learned Addl. P.G., duly assisted by learned counsel for the complainant, opposed both bail applications and submitted that the applicants were apprehended immediately after commission of offence during pursuit conducted by the police party in presence of the complainant; that the robbed mobile phone and weapon were recovered from co-accused Ali Javed during the same transaction; that police uniforms, caps and dresses were recovered from the same vehicle in which the present applicants were travelling; that the prosecution material reflects participation of the present applicants along with co-accused persons in the occurrence, thereby attracting the principle of common intention embodied under Section 34 PPC; and that sufficient material is available on record connecting the applicants with commission of offence and therefore, they are not entitled to concession of bail.

5. Heard. Record perused.

6. From tentative assessment of the material available on record, it appears that the occurrence took place on 17.07.2025 at about 1500 hours and the accused persons, including present applicants, were apprehended shortly after the incident during pursuit by the police party along with the complainant. Arrest of the applicants in close proximity of time and place to the occurrence carries significant weight at bail stage.

7. The role assigned to applicant Arsalan cannot tentatively be treated as inconsequential, as according to the prosecution case he was driving the vehicle allegedly used in commission of offence and for facilitating escape after the occurrence. Furthermore, police uniforms, caps and police dresses were allegedly recovered from the rear seat of the vehicle in which both applicants were travelling,

yet they claim ignorance and non-participation in the occurrence. Such plea at this stage is insufficient to dislodge the prosecution case.

8. Although no recovery has been effected from possession of the present applicants and the recovery of stolen mobile phone and 30-bore pistol has been attributed to co-accused Ali Javed, yet the prosecution material reflects participation of the present applicants along with co-accused persons in the occurrence, thereby attracting the principle of common intention embodied under Section 34 PPC. The allegations contained in the FIR, supported by the statement of complainant recorded under Section 161 Cr.P.C., tentatively connect all arrested accused with commission of offence.

9. The defence pleas regarding false implication, prior detention, CCTV footage and photographs do not outweigh the prosecution material available on record. The material relied upon by the applicants in support of such pleas constitutes matter of defence which at this stage does not dislodge the prosecution material available on record. At bail stage, only tentative assessment is required to be undertaken and where sufficient material connects the accused with commission of offence, such disputed pleas are to be examined by the learned trial Court during the course of trial.

10. No mala fide, enmity or ill-will has been shown against the complainant or police officials to believe that the applicants have falsely been implicated in the present matter.

11. The offence alleged against the applicants, though not falling within the prohibitory clause, is nevertheless of grave and heinous nature involving impersonation of police officials, armed robbery and use of firearm, which necessitates cautious consideration before grant of bail. The learned counsel for the applicants has argued that the case does not fall within the prohibitory clause of Section 497(1) Cr.P.C., therefore, the applicants are entitled to concession of bail. However, the Hon'ble Supreme Court of Pakistan in *Shameel Ahmed v. The State* (2009 SCMR 174) has categorically held that bail in cases not falling within the prohibitory clause is not a rule of universal application and that each case must be examined on its own facts and circumstances. Similarly, in *Afzaal Ahmed v. The State* (2003 SCMR 573), it was held that the mere fact that an offence does not fall within the prohibitory clause does not automatically render it bailable, and the Court retains discretion in granting bail based on established legal principles.

12. In view of the above facts and circumstances, learned counsel for the applicants have failed to make out a case for grant of post-arrest bail. Consequently, both instant bail applications are dismissed. These are the reasons of my short order dated 16.3.2026.

13. Needless to say, the observations made herein above are tentative in nature and the same shall not prejudice the case of either party at the trial.

JUDGE