

THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.446 of 2026

Applicant : Irfan son of Shahnawaz through
Mr. Imtiaz Hussain Bhutto Advocate

The State : Through Mr. Sharaf-u-Din Kanhar,
Assistant Prosecutor General, Sindh

Date of hearing : 25.05.2026

Date of decision : 25.05.2026

ORDER

Jan Ali Junejo, J.- This Order shall decide the post-arrest Criminal Bail Application filed by Applicant-Irfan son of Shahnawaz under Section 497, Cr.P.C., arising out of FIR No.394 of 2025, registered at Police Station Baloch Colony, Karachi, for offence punishable under Section 324, 353, 186, 34 PPC. The Applicant seeks bail after arrest, being aggrieved by the Order dated 08.01.2026, passed by learned District & Sessions Judge Karachi South, whereby, his earlier bail plea (Criminal Bail Application No.4589 of 2025) was declined.

2. Briefly stated, the prosecution case as set out in FIR No.394 of 2025 is that on 06.10.2025, the Complainant, namely SIP-Muhammad Akbar, along with his subordinate staff, was busy in snap checking at Shaheed-e-Millat Road, Expressway Road near Kashmir Plaza, Manzoor Colony, Karachi, when at about 0705 hours, the police party signaled three persons riding a 70-CC motorcycle bearing Registration No.KPC-3590 to stop; however, they allegedly resorted to straight firing upon the police party with intent to kill and attempted to flee from the spot. In self-defence, the police party chased and fired upon the accused persons, as a result whereof all three accused persons sustained injuries and fell down. Upon inquiry, they disclosed their names as Irfan son of Shahnawaz Ali, Sikandar son of Umer and Rashid Ali son of Muhammad Ali. Due to non-availability of private mashirs, police officials acted as mashirs. During personal search of Applicant-Irfan, one unlicensed 30-bore pistol bearing No.1217, along with a loaded magazine containing two live rounds, was recovered from his possession, while from the

possession of accused Rashid Ali, one unlicensed 9 mm pistol with rubbed number, along with a loaded magazine containing two live rounds, was recovered and from the personal search of accused Sikandar one used mobile phone POCO touch screen was recovered in the presence of mashirs. Thereafter, the mashirnama was prepared and, after completion of all legal formalities, the accused persons were brought to the police station and the instant FIR was lodged against them on behalf of the State.

3. Learned Counsel for the Applicant contends that the Applicant is innocent and has been falsely implicated due to malice and prior harassment by police. He further contends that the police have managed a false story and after making fake encounter implicated the Applicant by causing firearm injury to him and alleged recovered pistol has been foisted upon him only to show efficiency otherwise, Applicant has not committed the alleged offence. He further argues that there is violation of section 103 Cr.P.C., as no private person has been cited as witness though the alleged place of incident is situated in thickly populated area. The prosecution has failed to assign any specific overt act of firing to the present Applicant and allegation of firing is general and vague in nature and that there is a delay of about 7 hours 25 minutes in lodging FIR No.394 of 2025. It is further submitted that the case calls for further inquiry within the meaning of Section 497(2) Cr.P.C.; that the offence does not squarely fall within the prohibitory clause in substance; and that bail is a rule and its refusal is an exception. Lastly, he prayed for grant of bail to the Applicant.

4. On the other hand, learned Assistant Prosecutor General, Sindh has vehemently opposed for grant of bail and submits that the Applicant was arrested on the spot along with unlicensed 30-bore pistol with 2 live rounds; therefore, he is not entitled for grant of bail.

5. I have considered the arguments advanced by the learned Counsel for both the parties and perused the material available on record.

6. Admittedly, the Applicant is nominated in the FIR with a specific role and, according to the prosecution case, was apprehended at the spot immediately after the alleged encounter with the police party. The record prima facie reflects that the Applicant, along with his co-accused, allegedly resorted to straight firing upon the police officials who were performing their official duties during snap checking, thereby attracting the provisions of Sections 324, 353 and 186 PPC. It is also the prosecution case that an unlicensed 30-bore pistol along with a loaded magazine containing two

live rounds was recovered from the possession of the present Applicant at the time of his arrest. The recovery memo and other documentary evidence available on record lend prima facie support to the prosecution version at this tentative stage.

7. The contention of learned counsel for the Applicant that the alleged recovery has been foisted upon him and that a fake encounter has been engineered by the police raises disputed questions of fact which cannot be conclusively adjudicated upon during bail proceedings. Likewise, the plea regarding violation of Section 103 Cr.P.C. on account of non-association of private mashirs is not by itself sufficient to discredit the prosecution case at this stage, particularly when the police officials are stated to have acted as mashirs due to non-availability of private persons. The evidentiary value of such objection and the credibility of the prosecution witnesses are matters to be determined by the learned trial Court after recording evidence.

8. As regards the argument that no specific role of firing has been attributed to the Applicant, the FIR reveals that all the accused persons allegedly acted in furtherance of their common intention and collectively opened fire upon the police party. At the bail stage, the principle of vicarious liability flowing from Section 34 PPC cannot be ignored and the precise extent of participation of each accused is a matter requiring deeper appreciation of evidence during trial. Similarly, the alleged delay in lodging the FIR, though argued by the defence, does not appear to be of such magnitude or nature as would prima facie demolish the prosecution case, particularly when the occurrence involved exchange of fire, arrest of accused persons and their subsequent medical treatment and completion of necessary formalities.

9. It is also pertinent to note that the offence under Section 324 PPC falls within the prohibitory clause of Section 497 Cr.P.C., carrying severe punishment. At this stage, the material collected by the prosecution prima facie connects the Applicant with the commission of the alleged offence and no circumstance has been pointed out which may bring the case within the ambit of further inquiry as contemplated under Section 497(2) Cr.P.C. The pleas raised by the defence require deeper appreciation of evidence and determination of disputed facts, which is the exclusive domain of the trial Court and cannot be undertaken in bail jurisdiction.

10. It is settled law that while deciding a bail application, the Court is required to make only a tentative assessment of the material available on

record without touching the merits of the case. After such tentative assessment, I am of the considered view that sufficient incriminating material exists against the Applicant connecting him with the alleged offences. Consequently, the Applicant has failed to make out a case for the extraordinary concession of post-arrest bail.

11. For the reasons recorded above, this Criminal Bail Application filed on behalf of the Applicant is dismissed. 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 reasons of short order dated 25.05.2026.

JUDGE

Qurban