

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Criminal Bail Application No.S-330 of 2026

Applicant: Sabir Hussain s/o Illahi Bux
Through Mr. Hussain Bux Saryo Advocate

Respondent: The State through,
Mr. Ghulam Abbas Dalwani,
Deputy P.G Sindh

Date of hearing: 09.07.2026.

Date of Order: 09.07.2026.

ORDER

KHALID HUSSAIN SHAHANI, J. — Applicant Sabir Hussain, having been denied the relief of post arrest bail by the learned Sessions Judge, Umerkot, vide order dated 12.06.2026 passed in Bail Application No. 490 of 2026, arising out of F.I.R. No.133 of 2026 registered under Sections 324, 398 and 401 P.P.C. at Police Station Umerkot City, now invokes the jurisdiction of this Court.

2. The genesis of the prosecution narrative, as unfolded in the F.I.R. lodged by the complainant SIP Bahadur Khan Khaskheli, is that on 10.06.2026, during routine patrol duty aboard official vehicle No. SPG-027, the police contingent observed a motorcycle standing unattended along the southern verge of the Umerkot–Dhoronaro road, in proximity to Adtio Water. Two individuals, subsequently identified as the applicants, stood nearby armed with pistols. Mistaking the approaching police mobile for a private conveyance, they signalled it to halt. Upon the vehicle coming to a stop and the police personnel disembarking, the accused are alleged to have opened direct fire upon the police party with murderous intent. The police, adopting defensive measures, succeeded in overpowering and apprehending both assailants

without sustaining injury. A contemporaneous search, memorialized in a joint recovery memorandum, yielded from the applicant Muhammad Nadeem an unnumbered .30-bore pistol together with a magazine containing three live rounds, giving rise to the ancillary case, Crime No. 134 of 2026, under the Sindh Arms Act, as well as cash amounting to Rs. 3,25,000/-, admittedly the fruit of an antecedent theft already the subject of Crime No. 126 of 2026 under Sections 379/420/34 P.P.C. From the present applicant, Sabir Hussain, an unnumbered .32-bore pistol with four live rounds was similarly recovered, occasioning ancillary Crime No. 135 of 2026 under the Sindh Arms Act, alongside a further sum of Rs. 1,50,000/-, traceable to the same theft. An unregistered black Honda 125 motorcycle was also taken into custody, culminating in registration of the instant F.I.R.

3. Learned counsel for the applicant submits that the implicating allegations are the product of mala fide and ulterior design; that it strains credulity that, notwithstanding the alleged exchange of fire, no member of the police party sustained injury nor did the official vehicle bear any mark of impact; and that the matter, in consequence, warrants further inquiry. He accordingly prays for enlargement of the applicant on bail.

4. Learned Deputy Prosecutor General, appearing for the State, resists the application with equal vigour, contending that the applicant was apprehended red-handed, in possession of the crime weapon and stolen property forming the subject of Crime No.126 of 2026, and that the offence squarely attracts the prohibitory clause embodied in Section 497(1) Cr.P.C. He prays for dismissal of the application.

5. It is case of prosecution that applicant and co-accused had gathered at venue of occurrence with intention to commit robbery, but to constitute an offence u/s 398 PPC intention and preparation are the basic ingredients on which one could be charged and prosecution has failed to demonstrate its presence at this stage. Besides, it is not in dispute that the alleged firing proved wholly ineffective, no police official suffered so much as a scratch, nor did the official vehicle bear any trace of impact. In such circumstances, the applicability of Section 324 P.P.C. is a matter requiring closer scrutiny at trial. It bears additional emphasis that the minimum sentence prescribed under Section 398 P.P.C. is seven years' imprisonment, and it is a well-settled principle of criminal jurisprudence that, at the bail stage, the lesser punishment attracted by an offence is to be reckoned, the ultimate quantum of sentence being a matter for determination by the trial court upon appraisal of evidence. Reliance in this regard may usefully be placed on *Shahzore v. The State* (2006 YLR 3167).

6. It is further noteworthy that the prosecution's case rests entirely upon the testimony of police officials. Where the evidence is thus confined, the apprehension of tampering by the applicant recedes considerably. While the evidence of police witnesses is not, as a matter of law, inadmissible, its credibility, particularly where it constitutes the sole foundation of the prosecution's case must necessarily abide the test of trial. It is also material that the challan has since been submitted and the applicant continues to languish in custody; no useful purpose would be served by his continued incarceration pending trial.

7. In light of the foregoing, this Court is persuaded that the case set up against the applicant calls for further inquiry within the contemplation of Section 497(2) Cr.P.C. Accordingly, the instant bail application is allowed, and the applicant, Sabir Hussain son of Illahi Bux, is admitted to post-arrest bail subject to his furnishing surety in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) together with a personal recognizance bond in like amount, to the satisfaction of the learned trial court.

8. The observations recorded herein are strictly tentative and shall not be construed to prejudice either party at the trial.

JUDGE

“Chander Kumar”