

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Bail Application No.S-140 of 2026

[Sikandar Ali v. The State]

Applicant by : Mr. Mujeeb-Ur-Rehman Shar, Advocate

Respondents by : Mr. Neel Parkash, Deputy Prosecutor General Sindh.

Dates of Hearing : 14.04.2026

Date of Decision : 14.04.2026

ORDER

ARBAB ALI HAKRO J.:-Through this bail application u/s 497 Cr.P.C., applicant Sikandar Ali, seeks admission to post-arrest bail in Crime No.29/2026, registered at Police Station Khahi, u/s 24 of Sindh Arms Act, 2013. His earlier bail plea was declined by the learned Additional Sessions Judge, GBV Court Khipro, vide orders dated 31.03.2026. After that, the applicant approached this Court.

2. Briefly, the facts of the prosecution case are that on 22.03.2026, the complainant, namely ASI Ameer Baig Laghari, lodged an F.I.R. stating therein that he, along with his subordinate staff, was on patrolling duty in a government vehicle at about 1800 hours. When they reached Khahi to Doulatabad Road near Doulatabad Sim Nala at about 1830 hours, they saw a person standing in a suspicious condition towards the southern side of the road, who, on seeing the police mobile, attempted to escape but was apprehended. On inquiry, he disclosed his name as Sikandar, son of Obhayo, caste Khaskheli, resident of Doulatabad, Taluka Khipro. During his personal search, a 30-bore unnumbered pistol was recovered from the right side fold of his shalwar. The magazine was found loaded with two live rounds, which were unloaded on the

spot. On further search, nothing else was recovered. He failed to produce any license and stated that the weapon was unlicensed. Due to the non-availability of public mashirs, the recovery memo was prepared on the spot in the presence of police officials. Thereafter, the accused, along with the recovered weapon, was brought to the police station and kept in safe custody. The accused was found in possession of an unlicensed pistol with live rounds, thereby committing an offence punishable under Section 24 of the Sindh Arms Act, 2013.

3. I have given my anxious consideration to the arguments advanced by the learned counsel for the parties and have gone through the record with the assistance of the learned counsel.

4. It is pertinent to note that the offence with which the applicant stands charged is punishable under Section 24 of the Sindh Arms Act, 2013, which provides for a maximum punishment of imprisonment up to ten years or fine or both. The maximum punishment of ten years is at the threshold of the prohibitory clause contained in Section 497(1) of the Code of Criminal Procedure. The settled position of law is that where the maximum punishment provided for an offence is exactly ten years, the case falls at the threshold of the prohibitory clause and the Court is required to consider whether the case is one of further inquiry within the meaning of Section 497(2) of the Code of Criminal Procedure.

5. The Supreme Court of Pakistan has consistently held that at the bail stage, the Court is not required to make a deep or roving inquiry into the merits of the case. A tentative assessment of the material available on record is sufficient for the purpose of determining whether a case for further inquiry has been made out. It is further held that the expression further inquiry postulates that the material produced by the prosecution is insufficient to connect the

accused with the offence, and a further inquiry is required to ascertain the guilt of the accused.

6. Applying these principles to the present case, prima facie, there appear to be certain features that cast doubt on the prosecution's version. The FIR reveals that the alleged occurrence took place on a busy road, namely Khahi to Doulatabad Road, near Doulatabad Sim Nala, at about 1830 hours, which is not an unearthly hour. The place of occurrence is admittedly a public place with regular traffic and pedestrian movement. In such circumstances, the absence of any independent private witness to the arrest and recovery is a significant omission that casts a shadow of doubt on the prosecution's case.

7. Another significant aspect requiring consideration is the interpretation of Section 24 of the Sindh Arms Act. The provision penalizes possession of arms or ammunition with the aim of using them for any unlawful purpose, or of facilitating any other person in using them for any unlawful purpose. The use of the expression with the aim of using them for any unlawful purpose indicates that mere possession of an unlicensed weapon is not sufficient to constitute the offence. The prosecution is required to establish that the accused possessed the weapon with the specific intent to use it for an unlawful purpose. In the present case, there is no material on record to show that the applicant had any such unlawful intention or aim. The absence of material to establish the essential ingredient of the offence creates a case for further inquiry.

8. The learned Additional Sessions Judge, while dismissing the previous bail application, observed that the accused was arrested with the weapon and that the recovery was effected in the presence of mashirs. However, the learned trial Court appears to have overlooked the fact that the so-called mashirs are, in fact, subordinate police officials of the complainant and cannot be treated as independent witnesses.

9. In the case in hand, the maximum punishment is ten years, which is at the threshold of the prohibitory clause. The recovery is alleged to have been made by police officials without the association of any independent witness from a busy public place. The essential ingredient of the offence, namely possession with the aim of using for an unlawful purpose, is not established by any material on record. These factors taken together create a case of further inquiry within the meaning of Section 497(2) of the Code of Criminal Procedure.

10. Considering the totality of the circumstances and the material available on record, I am of the view that the applicant has made out a case for further inquiry.

11. In view of the above facts, I find no ground to hold the applicant in custody till completion of the trial and there is no serious contention of the prosecution that the applicant if released on bail would interfere with the trial or tamper with the evidence, therefore, in my view the continuous detention of the applicant in jail will not serve any purpose. Accordingly, instant bail application is allowed. The applicant is admitted to bail subject to his furnishing a solvent surety in the sum of Rs.50,000/-(rupees Fifty Thousand) and a P.R. Bond in the like amount to the satisfaction of the trial Court.

12. It is important to note that the observations made hereinabove are tentative in nature only to decide this bail application, which shall not in any manner influence the trial court at the time of the final decision of the subject case. However, the learned trial court is directed to proceed with and conclude the trial expeditiously.

JUDGE

"Adnan Ashraf Nizamani"