

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.844 of 2026

Applicants : 1. Mst. Hajira wife of Abdul Hameed  
2. Mst. Shaheena daughter of Abdul Hameed  
Through M/s. Irshad Ali Bhatti and Asifa  
Khawaja, Advocates

Complainant : Yousuf Khan son of Abdul Hameed,  
Through Mr. Omer Ismail Gora, Advocate

Respondent : The State  
Through Mr. Muhammad Mohsin Mangi, Asst.  
P.G Sindh a/w P.I. Rasheed Ahmed P.S.  
Gulshan-e-Maymar.

Date of hearing : 18.05.2026

Date of order : 18.05.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicants Mst. Hajira and Mst. Shaheena seek post-arrest bail in a case bearing Crime No. 396/2023 registered under Sections 324/427/109/34 PPC at Police Station Gulshan-e-Maymaar, Karachi. Previously, the bail of both accused were dismissed vide order dated 02.03.2026 passed by the learned IInd Additional District and Sessions Judge-II, Karachi West.

2. The prosecution case, as unfolded in the FIR lodged on 08.09.2023 for an incident alleged to have occurred on 18.08.2023 at about 2300 hours, is that the complainant Yousuf Khan son of Abdul Hameed, along with his friend Abdul Basit and his younger brother Abdul Shahir, was travelling from Bahria Town towards his home in his Toyota Corolla bearing registration No. BMX-173. When he reached Northern Bypass, Abbas Cut, Gulshan-e-Maymaar, Karachi, three boys riding a 125cc motorcycle, wearing masks, intercepted their vehicle, pointed a pistol at them, and opened fire with the intent to commit murder. Two bullets struck the rear driver-side door of the vehicle. The complainant, along with his companions, remained safe and escaped at high speed. In the FIR, the complainant asserted his belief that this attack was planned and arranged by his step-mother, namely Hajira, his step-sister Shaheena, their maternal uncle Saeed Wali, and their agents.

3. Learned counsel for the applicants argued with considerable force that the present applicants are innocent ladies falsely implicated in the instant case on account of a pre-existing civil and inheritance dispute

between the parties. He submitted that the delay of 21 days in the lodging of the FIR is fatal to the prosecution case, as no plausible explanation for such delay has been offered, and it smacks of deliberation, consultation, and afterthought. He contended that the most material and irrefutable fact in the instant case is that neither any person nor the complainant nor his brother nor his friend, sustained any injury whatsoever in the alleged firing incident. The complainant's own version is that all three occupants of the vehicle remained completely safe and the damage was limited to a door of the car. Learned counsel further contended that the role attributed to the present applicants is solely that of abetment under Section 109 PPC, meaning the actual firing is alleged to have been carried out by third parties, namely Haroon and Umar, who too were masked and therefore unidentified. He argued that there is not a shred of direct or circumstantial evidence on record, no call data record, no financial transaction, no witness to any alleged conspiracy, and no recovery of any kind from the applicants to establish any nexus between them and the commission of the alleged firing. He further pointed out that in the complainant's earlier application under Sections 22-A and 22-B Cr.P.C. bearing Petition No. 3073/2023, the alleged attackers were described as unknown persons, which is directly contradictory to the FIR where the names Haroon and Umar have been specifically introduced. He additionally submitted that the very basis of the FIR is legally suspect, inasmuch as it purports to have been registered pursuant to court directions in Petition No. 3073/2023, while that petition was in fact dismissed. The learned counsel placed reliance upon the judicial observations of the learned court in Petition No. 2872/2023 filed by the accused persons themselves, wherein this Court noted that the dispute between the parties is essentially a civil and inheritance matter, which had been sought to be converted into criminal proceedings. Lastly, he invoked the first proviso to Section 497(1) Cr.P.C., drawing the attention of this Court to the fact that both applicants are women, and Accused No. 1 is an elderly lady suffering from chronic ailments, including high blood pressure and diabetes.

4. On the other hand, learned APG for the State, assisted by learned counsel for the complainant, opposed the grant of bail and argued that the accused are specifically nominated in the FIR with the role of hatching a conspiracy to murder the complainant, that a clear motive exists in the shape of a previous FIR No. 72 of 2019 under Section 302 PPC registered at Police Station Taimoria in connection with the murder of the complainant's brother, in which the accused persons were initially convicted and sentenced to death before their acquittal by the Superior

Court. It was also urged that the accused remained fugitives from the process of law for approximately two and a half years despite knowledge of the FIR, and that their abscondence is a circumstance that weighs against the grant of bail.

5. I have heard learned counsel for the parties at some length and has perused the material available on record with care.

6. The primary ground urged by learned counsel for the applicants, and the one which in the considered view of this Court carries the greatest legal weight at this stage, is that admittedly no person received any injury in the alleged firing incident. The complainant himself states categorically in the FIR that all three occupants of the vehicle remained safe. Where an accused is charged under Section 324 PPC, an offence carrying punishment of up to ten years and falling within the prohibitory clause of Section 497(1) Cr.P.C. the gravity of the offence must nonetheless be assessed in the context of the actual harm caused. The Honourable Supreme Court has consistently held that where no injury whatsoever is sustained by the complainant or any witness, the invocation of Section 324 PPC assumes a different complexion at the bail stage and the case is rendered fit for further inquiry.

7. The second and equally compelling ground is that the entire role attributed to the present applicants is one of abetment under Section 109 PPC, that is, hatching of a conspiracy to cause the attack. It is trite law, consistently recognized by the superior courts of this country, that the offence of abetment under Section 109 PPC requires proof of instigation, engagement in conspiracy, or intentional aiding, and that such proof must be grounded in tangible evidence, not mere suspicion or relationship. The Honourable Supreme Court held that every person accused of the commission of an offence punishable under Section 109 PPC is entitled to the grant of bail irrespective of the merits, given the nature of the offence. At the present stage, the prosecution has placed no material on record, no call data record, no financial transaction, no independent witness, no recovery, that connects the applicants to the conspiracy alleged. The applicants were not present at the scene of the alleged occurrence. The actual firing is attributed to masked, motorcycle-borne assailants. That the complainant attributes the conspiracy to his step-mother and step-sister solely on the basis of pre-existing enmity, without any connecting evidence, is a circumstance which at the tentative stage renders the case one of further inquiry within the meaning of Section 497(2) Cr.P.C.

8. The third ground is the unexplained delay of 21 days in the lodging of the FIR. Delay in lodging an FIR has consistently been treated by superior courts as a circumstance warranting caution at the bail stage, since it creates the possibility of deliberation and concoction. This Court also draws sustenance from the authoritative pronouncement in 2026 SCMR 442<sup>1</sup>, wherein a Division Bench of the Honourable Supreme Court of Pakistan reaffirmed that the quintessence of further inquiry must have a linkage with the outcome of the case and presupposes a tentative assessment which creates doubt with respect to the involvement of the accused in the crime. The Supreme Court further held that the prosecution, in order to make out a case for refusal of bail, is primarily supposed to place on record material on the basis of which the accused is believed to be involved in a non-bailable offence, and that in the absence of such material, the Court, instead of dilating upon the facts of the case in detail, can dispose of the matter by holding that the detention of the accused is unjustified or unreasonable. It was further reiterated that deeper appreciation of evidence is not permissible at the bail stage, and that the object of the trial is to make an accused face the trial and not to punish an under-trial prisoner. In the present case, as elaborated hereinabove, the prosecution has placed no material on record, no call data record, no financial transaction, no independent witness, no recovery of any kind, to connect the present applicants with the alleged conspiracy. Their continued detention, in the absence of such material, would be both unjustified and unreasonable. Furthermore, the delay in the present case is compounded by the fact that the FIR appears to have been lodged on the purported basis of court directions in Petition No. 3073/2023, even though that petition was dismissed; this internal contradiction in the genesis of the FIR further weakens the prosecution's case at this stage.

9. The fourth ground is the material contradictions in the prosecution's own narration. In the earlier application filed before the criminal court under Sections 22-A and 22-B Cr.P.C., the alleged assailants were described as unknown persons, whereas the FIR names them as Haroon and Umar. The number of rounds fired as stated in the FIR also differs from that mentioned in the earlier petition. These inconsistencies, taken together, make the prosecution story tentatively suspect at this stage.

10. As regards the factor of the accused persons' prior criminal record and abscondence, relied upon by the learned ASJ to dismiss the bail

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<sup>1</sup> Manan Ali and others v. The State.

application, this Court is of the view that while such factors are not irrelevant, they cannot be the sole and overriding basis for the refusal of bail, particularly when the substantive legal grounds in favour of the applicants, including no injury to any person, role confined to abetment without connecting evidence, a 21-day delay in the FIR, and serious contradictions in the prosecution story, collectively indicate that the case requires further inquiry. The learned ASJ appears to have placed disproportionate weight on the criminal antecedents of the accused without conducting the tentative assessment of the merits of the present case that the law requires. It is well settled that bail proceedings require only a tentative and not a final assessment of guilt, and that the detailed appreciation of evidence is an exercise reserved exclusively for the trial court.

11. Lastly, and independently of the foregoing, both applicants are women. The first proviso to Section 497(1) Cr.P.C. confers upon this Court a specific discretion to enlarge women accused on bail even in cases falling within the prohibitory clause. The Honorable Apex Courts have reiterated that the said proviso is to be interpreted purposively and auspiciously in favour of female accused, taking into account the ground realities of women in custody, their health conditions, and their personal circumstances. Accused No. 1, Mst. Hajira, is an elderly woman suffering from chronic ailments including high blood pressure and diabetes, and her continued incarceration in the absence of compelling reasons would constitute an avoidable hardship.

12. In view of the cumulative force of the foregoing considerations, this Court is satisfied that the case of both applicants tentatively falls within the ambit of further inquiry under Section 497(2) Cr.P.C., and that in the additional circumstances of both being women within the meaning of the first proviso to Section 497(1) Cr.P.C., they are entitled to the concession of bail at this stage.

13. Accordingly, both the applicants, namely Mst. Hajira and Mst. Shaheena, are admitted to post-arrest bail subject to each furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands) and a P.R. Bond in the like amount, to the satisfaction of the learned trial Court. The observations recorded hereinabove are tentative in nature and shall not prejudice the case of either party at the time of trial.

**J U D G E**