

ORDER SHEET
THE HIGH COURT OF SINDH, MIRPURKHAS CIRCUIT

Crl. Bail Application No. S-483 of 2026

Applicant	:	Kashif through Mr. Mir Muhammad Nohri, Advocate.
Respondent	:	The State through Mr. Neel Parkash D.P.G.
Date of Hearing	:	21.09.2026
Date of Order	:	21.09.2026

ORDER

Muhammad Humayon Khan, J.: Through the instant Criminal Bail Application, the applicant/accused Kashif son of Nasir Jatt seeks post-arrest bail under Section 497 Cr.P.C. in Crime No.270 of 2026, registered at Police Station Khipro for an offence under Section 24 of the Sindh Arms Act, 2013. The applicant is presently confined in Sub-Jail Khipro and has approached this Court after dismissal of his earlier bail application by the learned Additional Sessions Judge, Khipro, vide order dated 19.08.2026.

2. The brief background of the prosecution case is that on 30.07.2026, complainant ASI Mohram Samejo, Incharge Eagle Squad, Police Station Khipro, along with other police officials, was allegedly on patrol when, at about 1930 hours near Bypass Road, Khipro, close to Mono Technical College, they noticed the applicant standing in a suspicious condition. The police apprehended him and, upon conducting his personal search, allegedly recovered one unlicensed TT pistol without number, along with two live bullets, from the fold of his shalwar. The weapon and ammunition were taken into possession through a mashirnama of arrest and recovery and, thereafter, the applicant along with the case property was brought to the police station, where the aforesaid FIR was registered against him under Section 24 of the Sindh Arms Act, 2013.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in the present case; that the alleged recovery of the unlicensed TT pistol and live rounds is foisted and fabricated; that no independent person from the locality was associated in the alleged recovery proceedings despite the place of arrest being a public place, while the mashirs are police officials and, therefore, interested witnesses; that the prosecution case, in the circumstances, requires further inquiry within the meaning of Section 497(2), Cr.P.C.; that the alleged weapon has not been connected with the commission of any other offence

through any positive ballistic or forensic evidence; that the offence under Section 24 of the Sindh Arms Act, 2013 does not fall within the prohibitory clause of Section 497(1), Cr.P.C.; and that the applicant is in custody, the investigation has already been completed and the challan has been submitted, therefore, his further incarceration would serve no useful purpose. He lastly prayed that the applicant may be admitted to post-arrest bail.

4. Conversely, learned DPG opposed the bail application and supported the impugned order, contending that the applicant was apprehended at the spot and an unlicensed TT pistol along with two live bullets was recovered from his possession; that the recovery proceedings were duly conducted and the case property was taken into police possession in accordance with law; that at the bail stage only tentative assessment of the material is permissible and deeper appreciation of evidence is not warranted; and that sufficient material is available on record to connect the applicant with the commission of the alleged offence. He, therefore, prayed for dismissal of the bail application.

5. I have heard learned counsel for the applicant as well as learned DPG and have perused the material available on record with their assistance. At the bail stage, the Court is required to make only a tentative assessment of the material and is not to undertake a deeper appreciation of evidence which may prejudice either side at the trial. The question is whether, on such tentative assessment, there exist reasonable grounds for believing that the applicant is guilty of the offence alleged, or whether the matter calls for further inquiry within the contemplation of Section 497(2), Cr.P.C.

6. The prosecution case, as presently reflected from the FIR, is confined to the alleged recovery of one TT pistol without number and two live bullets from the applicant at a public place. Section 24 of the Sindh Arms Act, 2013 is not a provision dealing with bare possession simpliciter; it concerns possession of arms or ammunition, licensed or unlicensed, with the aim to use the same for an unlawful purpose or to facilitate another person in such unlawful use. In *Ayaz Ali v. The State* (PLD 2014 Sindh 282), while examining Sections 23(1)(a) and 24 of the Sindh Arms Act, 2013, this Court drew a distinction between possession of a firearm in contravention of the licensing requirement and possession accompanied by the statutory element of an aim to use it for an unlawful purpose. In the present case, no specific unlawful purpose, proposed use, overt act, or connected offence is attributed to the applicant in the prosecution narrative reproduced above. Whether the ingredients of Section 24 are ultimately attracted is, therefore, a matter which

requires evidence and, at this stage, provides a substantial ground for further inquiry.

7. It is also material that the alleged arrest and recovery were effected near Bypass Road, Khipro, close to Mono Technical College, i.e. at a public place, yet no private person appears to have been associated as a mashir and the cited recovery witnesses are police officials. Police officials are not, merely by reason of their official status, incompetent witnesses; nevertheless, where the defence specifically pleads foisting and the alleged recovery is from an open public place, the absence of independent association is a circumstance that may legitimately be examined at trial and, tentatively, adds to the need for further inquiry. Equally, as pointed out by learned counsel, no positive ballistic or forensic material has been shown at this stage connecting the alleged weapon with the commission of any other offence.

8. The investigation has admittedly been completed and the challan has been submitted; hence, the applicant is no longer required for custodial interrogation. Nothing has been brought to the notice of this Court to suggest that, if released on bail, he is likely to abscond, tamper with the prosecution evidence, repeat the alleged offence, or otherwise obstruct the course of justice. The Supreme Court in *Tariq Bashir and 5 others v The State* PLD 1995 Supreme Court 34, followed in *Zafar Iqbal v Muhammad Anwar and others* 2009 SCMR 1488 and *Riaz Jafar Natiq v Muhammad Nadeem Dar and others* 2011 SCMR 1708, has consistently held that where an offence does not call for the rigours ordinarily associated with the prohibitory clause, grant of bail is to be favourably considered and refusal is justified only in exceptional circumstances. No such exceptional circumstance is presently apparent from the record before me.

9. Although Section 24 of the Sindh Arms Act, 2013 prescribes imprisonment which may extend to ten years, the maximum term stated in the statute is not to be viewed in isolation while deciding bail. In *Jamal-ud-Din alias Zubair Khan v The State* 2012 SCMR 573, the Supreme Court held that, for bail purposes, the Court is to keep in view the sentence likely to be entailed in the facts and circumstances rather than mechanically proceeding on the maximum punishment alone. The same broader approach to bail in cases not warranting exceptional refusal was reiterated in *Muhammad Tanveer v The State and another* PLD 2017 Supreme Court 733. Here, the allegation concerns a single pistol and two live rounds, without any allegation in the FIR of its use, attempted use, or nexus with another offence. On a tentative assessment, therefore, continued incarceration of the applicant is not shown to be necessary for investigation or for protection of the prosecution case.

10. For the foregoing reasons, the applicant has succeeded in making out a case for post-arrest bail, at least on the ground of further inquiry under Section 497(2), Cr.P.C. Consequently, this Criminal Bail Application is allowed. Applicant/accused Kashif son of Nasir Jatt is admitted to bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. However, in the event that the applicant is found misusing the concession granted by this order, the learned Trial Court shall be at liberty to recall the bail of the applicant and proceed in accordance with law.

11. Needless to observe that the findings and observations recorded herein are tentative in nature, confined only to the disposal of the present bail application, and shall not prejudice either party nor influence the learned trial Court while deciding the case strictly on the evidence brought before it.

J U D G E

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