

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail No.D-153 of 2026

Present: **Mr. Justice Riazat Ali Sahar**
Mr. Justice Ali Haider 'Ada'

Applicant : Arz Muhammad son of Hussain Bux
Through Mr. Abdul Qudoos Jatoi,
Advocate

The State : Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh.

Date of Hearing : 24.09.2026

Date of Order : 24.09.2026

ORDER

RIAZAT ALI SAHAR, J.- Through the instant bail application, applicant Arz Muhammad son of Hussain Bux seeks post-arrest bail in Crime No.156 of 2025, registered at Police Station Hyderi, Larkana, for offences punishable under Sections 324, 353 and 399, PPC, read with Sections 6/7 of the Anti-Terrorism Act, 1997. The applicant is presently confined at District Prison, Larkana. His application for post-arrest bail was dismissed by the learned Judge, Anti-Terrorism Court, Larkana, vide order dated 13.08.2026.

2. Briefly stated, the prosecution case, as set out in the FIR, is that on 27.12.2025, complainant SIP/SHO Abdul Razaque Gaincho, along with other police officials, was on patrolling duty. At about 1930 hours, when the police party reached near Fragrant Wedding Hall, Naudero-Larkana Road, they allegedly noticed four unknown persons standing on the left side of the road along with two motorcycles. Upon being asked to surrender, the accused persons allegedly opened direct fire upon the police party, which was retaliated in self-defence. During the exchange of fire, PC Aurangzeb Jatoi sustained firearm injuries, whereas one of the alleged accused, namely Ali Gul Kalhoro, also sustained injuries and subsequently succumbed thereto at the Trauma Centre. A pistol and a motorcycle were allegedly recovered from the place of occurrence. Hence, the subject FIR was registered.

3. Learned counsel for the applicant contends that the applicant is innocent and has been falsely implicated. According to him, the applicant was neither nominated nor otherwise identified in the promptly lodged FIR, and his

name surfaced subsequently through statements recorded under Section 161, Cr.P.C., pursuant to an order dated 29.01.2026 passed by the learned Ex-Officio Justice of Peace, Larkana. He further submits that the applicant was arrested on 15.02.2026, but no incriminating article was recovered from his possession. According to learned counsel, during investigation the applicant was found innocent not only by the Investigating Officer but also by the J.I.T.; consequently, in the final challan submitted on 04.06.2026, he was placed in Column No.2 and released under Section 169, Cr.P.C. Learned counsel further relies upon the CDR material collected during investigation and submits that the same creates doubt regarding the presence of the alleged witnesses at the place and time of occurrence. He maintains that the applicant's subsequent implication and the alleged electronic evidence require proper scrutiny at trial. Lastly, it is contended that the applicant has remained in custody since 15.02.2026, investigation stands completed and challan has already been submitted; therefore, his case falls within the ambit of further inquiry contemplated by Section 497(2), Cr.P.C.

4. Conversely, learned D.P.G., Sindh, has vehemently opposed the bail application and supported the impugned order. He submits that the applicant has been connected with the occurrence through the statements of witnesses recorded under Section 161, Cr.P.C., and other material collected during investigation; therefore, he is not entitled to the concession of bail.

5. We have heard learned counsel for the applicant and learned D.P.G. for the State and have perused the available record with their assistance.

6. A tentative assessment of the record reveals that the applicant was not nominated in the promptly lodged FIR, wherein the assailants were described as unknown persons. His name surfaced subsequently through statements recorded under Section 161, Cr.P.C., pursuant to the order dated 29.01.2026 passed by the learned Ex-Officio Justice of Peace, Larkana. It further appears that, upon completion of investigation, the Investigating Officer submitted the final challan on 04.06.2026, placing the applicant in Column No.2 after finding him innocent and releasing him under Section 169, Cr.P.C. The record further reflects that a J.I.T. also investigated the matter and arrived at a similar conclusion regarding the applicant.

7. Admittedly, no incriminating article was recovered from the possession of the applicant. The pistol and motorcycle referred to by the prosecution were allegedly recovered from the place of occurrence and were connected with

deceased accused Ali Gul Kalhoro rather than being recovered from the present applicant. Thus, there is no direct recovery from the applicant connecting him with the commission of the alleged offence.

8. The learned trial Court, while declining bail, appears to have placed considerable reliance upon the alleged video recording and the audio/video analysis report dated 05.03.2026. At the bail stage, however, the Court is required to undertake only a tentative assessment of the material and not a deeper appreciation thereof, which remains the function of the trial Court after evidence is recorded. Whether the person appearing in the alleged video is, in fact, the present applicant; whether the recording is genuine, untampered and duly proved in accordance with law; and what evidentiary value may ultimately be attached thereto are questions requiring determination during trial. The forensic report, therefore, cannot, at this stage and without formal proof, be treated as conclusive evidence of the applicant's participation in the occurrence.

9. Likewise, the CDR material relied upon by learned counsel for the applicant raises questions regarding the alleged presence of certain prosecution witnesses at the relevant place and time. Its evidentiary worth, as well as the effect of the subsequent statements recorded under Section 161, Cr.P.C., can appropriately be determined only after the prosecution evidence is subjected to the test of examination and cross-examination. Nevertheless, for the limited purpose of bail, these circumstances cannot altogether be ignored.

10. We are mindful that the opinion of the Investigating Officer, the conclusion of a J.I.T., or placement of an accused in Column No.2 of the challan does not, by itself, entitle an accused to bail, as the Court is required to form its own tentative view on the basis of the material available on record. However, such circumstances are relevant and may legitimately be taken into consideration along with the other attending features of the case. Here, the applicant was not nominated in the FIR; his implication surfaced subsequently; no incriminating recovery was effected from him; both the Investigating Officer and the J.I.T. found him innocent; and the principal material relied upon to connect him with the occurrence, particularly the alleged electronic evidence, still requires proof and judicial determination at trial.

11. It is also significant that the applicant has remained in custody since 15.02.2026. The investigation has already been completed and the challan

submitted; therefore, his further incarceration is not required for the purpose of investigation. When the above circumstances are considered cumulatively, rather than in isolation, they create a reasonable ground for further inquiry into the applicant's involvement in the alleged occurrence within the contemplation of Section 497(2), Cr.P.C. At this stage, any deeper examination of the prosecution material would amount to entering into the merits of the case, which is neither desirable nor permissible while deciding a bail application.

12. For the foregoing reasons, and without expressing any final opinion on the merits of the case, we are tentatively satisfied that the applicant has succeeded in making out a case of further inquiry within the meaning of Section 497(2), Cr.P.C. Consequently, the instant bail application is allowed and applicant Arz Muhammad son of Hussain Bux is admitted to post-arrest bail subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a P.R. Bond in the like amount to the satisfaction of the learned trial Court.

These are the reasons for our short order dated 24.09.2026.

13. Needless to observe that all observations made hereinabove are purely tentative in nature, confined to the disposal of the instant bail application, and shall neither prejudice the case of either party nor influence the learned trial Court while deciding the matter on merits.

Judge

Judge

Manzoor