IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Application No. S-485 of 2026

Applicant	:	Ghulam Qadir @ Baboo S/o Sadique, through Mr. Saad Salman Ghani Advocate
Complainant	:	Shah Zaman s/o Ghulam Rasool Katiyar, through Mr. Inderjeet D. Lhana Advocate
Respondent	:	The State through Mr. Irfan Ali Taplur, Deputy Prosecutor General a/w IO ASI Nek Muhammad Panhwar
Date of hearing	:	29-09-2026
Date of Short Order	:	29-09-2026
Date of Reasons	:	28-10-2026

O R D E R

JAWAD AKBAR SARWANA, J.- Through the captioned bail application, applicant/accused Ghulam Qadir @ Baboo S/o Sadique seeks post-arrest bail in Crime No.115 of 2025, registered at Police Station Tando Bago for the offences U/Ss 324, 397, 114, 147, 148, 149, 337-Hii and 504 PPC. Earlier, his first bail application was declined by the learned IInd Additional Sessions Judge, Badin, vide order dated 12.03.2026.

2. I have heard the learned counsel for the applicant/accused, complainant and the learned DPG Sindh and have perused the record, and my observations are as herein below.

3. The background of the matter is set out in the FIR, which, for the sake of brevity, is not reproduced and may be read into this paragraph ad seriatim.

4. From the perusal of the record, it appears that the FIR was lodged with a delay of about four days without furnishing any cogent or plausible explanation. Such delay in registering the FIR, particularly in criminal cases of this nature, raises serious doubts about the authenticity of the prosecution version and suggests deliberation and consultation before

registering the case. This aspect alone makes the applicant's case fit for further inquiry under Section 497(2), Cr.P.C. In case titled “Syed Aman Ullah Shah v. The State and another” reported as PLD 1996 SC 241, the Apex Court has held as follows:-

> "So whenever reasonable doubt arises with regard to the participation of an accused person in the crime or about the truth/probability of the prosecution case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail then in the jail, during the trial."

5. According to the FIR, the two persons carrying pistols fired, namely Ahsaan son of Shamoo Umrani, who made straight fire on Sarfaraz, the complainant’s brother, and Ghulam Qadir @ Baboo son of Sadiq Umrani, who made straight fire on the complainant, hitting with a bullet striking his left side of abdomen/belly, and he sustained injury on his left upper arm above the elbow. The injury suffered by the complainant was/is not on a vital part and, as such, cannot be attributed or held at par with the straight fire made by Ahsaan, which hit the accused on his spleen on the left side over the stomach. Further, such firearm injury under Section 33 H(ii) PPC cannot be attributed to the applicant/accused either, as per the FIR, as he is not named as having fired at a vital part of the victim. The applicant/accused fired only a single shot at a non-vital part of the concerned injured; the intention behind such firing is triable and yet to be proven. Thus, it requires further inquiry.

6. Further, nothing has been recovered during the investigation in terms of the weapon, and the applicant/accused also has no CRO except one other CRO, the current status of which is not known. Last but not least, the applicant/accused has been behind bars for more than ten (10) months.

7. It is also pertinent to observe that except for Sections 324 and 397, PPC, all other sections mentioned in the FIR are bailable in nature. While the complainant has set up a case for theft of the Unique branded motorbike, the said motorcycle has not yet been recovered. Furthermore, the alleged robbery/dacoity is limited to this Unique motorbike by seven (7) accused who themselves allegedly came on three motorbikes of their own and allegedly stole a motorbike from the

complainant, with no explanation provided in the FIR as to which one of the seven (7) accused stole/rode away with the motorbike, viz. the role of the present applicant/accused seeking post-arrest bail and this entire matter of alleged robbery/dacoity left to be decided during trial. Whether Sections 324 and 397, PPC are attracted in the peculiar circumstances of the case is a matter which can only be determined by the learned trial Court after recording evidence. At this tentative stage, applicability of Sections 324 and 397, PPC remains doubtful, thereby further fortifying the plea of further inquiry raised on behalf of the applicants. The remaining sections do not fall within the prohibitory clause of Section 497 CrPC. Grant of bail in such like offences is a rule and refusal thereof is an exception. In the case titled "Muhammad Tanveer v. The State and another" reported as PLD 2017 SC 733, the Apex Court has held as under;-

> "Once this Court has held in categorical terms that grant of bail in offences not falling within the prohibitory limb of section 497, Cr.P.C. shall be a rule and refusal shall be an exception then, the Courts of the country should follow this principle in its letter and spirit because principles of law enunciated by this Court are constitutionally binding on all Courts throughout the country including the Special Tribunals and Special Courts."

Similarly, in the case titled "Tariq Bashir and 05 others v. The State" reported as PLD 1995 SC 34, the Apex Court has also affirmed the same rationale by observing that;-

> "That grant of bail in offences punishable with imprisonment for less than ten years is a rule and refusal is an exception, which are missing in the present case."

8. In the circumstances and in view of the legal position, the case against the applicant/accused is purely covered by Sub-Section (2) of Section 497 CrPC and a case for grant of post-arrest bail has been made out in favour of the applicant/accused.

9. Consequently, vide my short order dated 29.09.2026, this Bail Application was allowed and the applicant/accused Ghulam Qadir @ Baboo S/o Sadique was admitted to post-arrest bail in Crime No.115 of 2025, registered at Police Station Tando Bago for the offences U/Ss 324, 397, 114, 147, 148, 149, 337-Hii and 504 PPC subject to furnishing

solvent surety in the sum of Rs.200,000/- (Rupees Two Lac Only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. These are the reasons in support thereof.

10. The above are the reasons for my short order dated 29.09.2026 allowing the pre-arrest bail to the above-named Ghulam Qadir.

11. Needless to mention that the observations made herein are merely tentative and shall not be relied upon by the parties or by the trial Court and shall not influence the learned trial Court at the time of final decision based on merits after recording of evidence.

J U D G E

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