

HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS
Criminal Bail Application No.S-524 of 2026

Applicant : Barocho son of Muhabbat.
Through Mr. Wishan Das Kolhi & Ms. Munnazah Siddiqui, Advocates.

Respondent : The State.
Through Mr. Ghulam Abbas Dalwani, D.P.G.

Date of hearing : 08.10.2026

Date of Order : 08.10.2026

ORDER

RIAZAT ALI SAHAR, J:- Through the instant bail application, the applicant/accused seeks his release on post-arrest bail in Crime No.321 of 2026, registered at Police Station Khipro, District Sanghar, for an offence punishable under Section 24 of the Sindh Arms Act, 2013. His earlier application seeking identical relief was dismissed by the learned Additional Sessions Judge, Khipro, vide order dated 29.09.2026.

2. The facts and particulars of the prosecution case have already been narrated in the FIR, a copy whereof is annexed with the instant application. Therefore, unnecessary repetition thereof is avoided in view of the principle laid down by the Honourable Supreme Court in PLD 2014 SC 458.

3. Learned counsel for the applicant contends that the applicant has been falsely implicated in the present case and that the alleged weapon and ammunition have been foisted upon him by the police. It is further argued that, although the alleged recovery was effected at about 1815 hours on the main Khipro–Umerkot Road, which is ordinarily accessible to the general public, no independent person from the locality was associated with the recovery proceedings as mashir or witness. According to learned counsel, the entire prosecution case rests upon the statements of police officials, who are subordinate to the complainant, thereby raising serious questions regarding the transparency and credibility of the alleged recovery. Learned counsel further submits that the investigation has already been completed, the challan has been submitted before the

competent Court, and the applicant is no longer required for any investigative purpose. He, therefore, prays for grant of post-arrest bail.

4. Conversely, learned Deputy Prosecutor General has vehemently opposed the application, contending that an unlicensed TT pistol along with two live rounds was recovered from the conscious possession of the applicant at the time of his arrest. He maintains that the alleged offence carries punishment extending to ten years' imprisonment and, therefore, attracts the prohibitory clause of Section 497(1), Cr.P.C. He accordingly prays for dismissal of the bail application.

5. I have heard learned counsel for the applicant as well as learned Deputy Prosecutor General and have carefully examined the material available on record. At the very outset, it may be observed that the prosecution case is founded upon the alleged recovery of an unlicensed TT pistol along with two live rounds from the possession of the applicant. Admittedly, the alleged recovery was effected at about 1815 hours on the main Khipro-Umerkot Road, a public thoroughfare where the availability of independent persons could reasonably be expected. However, no private person was associated with the recovery proceedings. Although the testimony of police officials cannot be discarded merely on account of their official status, the absence of independent corroboration, particularly where the recovery is alleged to have taken place at a public location, is a circumstance which requires careful judicial scrutiny. Whether the alleged recovery was genuine, whether the prescribed legal formalities were duly observed, and whether the prosecution witnesses are worthy of reliance are questions which can appropriately be determined after recording evidence at the trial. At this tentative stage, such circumstances cannot be altogether ignored while considering the applicant's entitlement to bail.

6. It is also pertinent to observe that Section 24 of the Sindh Arms Act, 2013, prescribes punishment of imprisonment which may extend to ten years, besides fine. Thus, the maximum punishment prescribed under the said provision is ten years' imprisonment. The prohibitory clause of Section 497(1), Cr.P.C., expressly encompasses offences punishable with death, imprisonment for life, or imprisonment for ten years. Consequently, the mere fact that the statute provides discretion to award a lesser sentence does not, by itself, take the offence outside the prohibitory

clause. Nevertheless, the applicability of the prohibitory clause does not create an absolute bar against the grant of bail where the material available on record brings the case within the scope of further inquiry under Section 497(2), Cr.P.C.

7. The expression “reasonable grounds for believing”, as employed in Section 497(1), Cr.P.C., requires the existence of sufficient material which, upon tentative assessment, reasonably connects the accused with the commission of the alleged offence. Conversely, where the material collected by the prosecution gives rise to a reasonable doubt regarding the accused’s involvement, or where the circumstances call for further examination of the prosecution version, the case may fall within the ambit of Section 497(2), Cr.P.C. It is equally well settled that, at the bail stage, the Court is not required to undertake a deeper appreciation of evidence or to record any conclusive finding regarding the guilt or innocence of the accused.

8. In the present case, the alleged recovery, the absence of independent witnesses despite the stated public location of the occurrence, and the fact that the prosecution case depends entirely upon official witnesses are circumstances which, when examined cumulatively and tentatively, call for further inquiry into the prosecution allegations. Moreover, the investigation has already been completed and the challan submitted before the learned trial Court. No material has been pointed out by the prosecution suggesting that the applicant is required for further investigation or that his release would necessarily result in interference with the prosecution evidence. Continued incarceration of the applicant, in the peculiar circumstances of the present case, would therefore serve no useful investigative purpose. It must, however, be clarified that completion of investigation, by itself, does not confer an automatic right to bail; rather, it is an additional circumstance to be considered along with the other material available on record.

9. In view of the foregoing discussion, and without expressing any final opinion on the merits of the prosecution case, I am of the tentative view that the matter calls for further inquiry within the meaning of Section 497(2), Cr.P.C. Accordingly, the instant bail application is allowed, and the applicant/accused is admitted to post-arrest bail, subject to furnishing

solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and a personal recognizance bond (P.R. Bond) in the like amount, to the satisfaction of the learned trial Court.

10. Needless to observe that all observations made hereinabove are purely tentative in nature, confined exclusively to the determination of the present post-arrest bail application, and shall neither prejudice the case of either party nor influence the learned trial Court while deciding the matter on merits, which shall be determined independently on the basis of evidence brought on record.

JUDGE

"Saleem"

