

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.S- 286 of 2025

Applicant: Shafique Ahmed Kamangar through
Mr. Rukhsar Ahmed Junejo, Advocate

Respondent: State through Mr.Zulfiqar Ali Jatoi, APG

Date of hearing: **05.05.2025**

Dated of order: **05.05.2025**

ORDER

Zulfiqar Ali Sangi, J.- Applicant/accused Shafique Ahmed son of Wazir Ahmed by caste Kamangar, seeks his post-arrest bail in FIR No.53/2025, registered at Police Station Rohri, under Section 23(i)(a) Sindh Arms Act, 2013. His earlier bail application was declined by the learned Additional Sessions Judge-I/Model Criminal Trial Court-I, Sukkur vide order dated 25.03.2025, hence this application has been filed.

2. Brief facts of the prosecution case are that the applicant / accused was arrested in main Crime No.52/2023 registered with Police Station Rohri and from his possession an unlicensed 30 bore pistol along with magazine, fourteen (14) packets of Kalashnikovs each packet containing 20 bullets and a empty magazine were recovered, for which the applicant/accused could not produce any valid license, subsequent thereto, the FIR of the incident was registered by the complainant

3. The learned counsel for the applicant/accused contended that the applicant is innocent and has been falsely implicated with malafide intentions and political motives, being a political activist and employed as a security officer in a security company at the time of arrest. It is contended that the alleged recovery of arms and ammunition has been foisted to strengthen the main case. He contended that failure to associate independent witnesses violates Section 103 Cr.P.C., further weakening the case. He contended that the applicant has no prior criminal record and he is the sole breadwinner of a large family. In the end learned counsel prays for grant of post-arrest bail, as the case requires further enquiry.

4. Conversely, the learned Additional Prosecutor General has opposed the grant of bail, contending that the recovery of an unlicensed 30 bore pistol along with a huge quantity of ammunition from the applicant's possession constitutes a serious offence under Section 23(i)(a) of the Sindh Arms Act, 2013, which falls within the prohibitory clause of Section 497 Cr.P.C. He contended that the applicant failed to provide any valid license or justification for such possession, and mere claims of political victimization or employment in a security company are unsubstantiated and irrelevant at this stage. He further argued that the absence of independent witnesses is not sufficient to undermine the prosecution case at the bail stage, and the available evidence sufficiently connects the accused to the offence, which does not warrant further inquiry, therefore, the applicant/accused is not entitled to the concession of bail.

5. I have heard learned counsel for the applicant, learned APG for the state and have gone through the material available on record with their able assistance.

6. It is pertinent to note that the bail application of the applicant/accused in the main case, Crime No. 52/2023, was earlier dismissed by the learned Additional Sessions Judge-I/Model Criminal Trial Court-I, Sukkur, on merits. The said dismissal was not a mere procedural rejection but was based on a detailed assessment of the facts and evidence placed before the trial Court.

7. The facts on record disclose that the applicant/accused was apprehended on the basis of credible spy information received by the complainant party led by ASI Aijaz Hussain. The recovery of a 30 bore pistol, unlicensed, along with a large quantity of ammunition from his possession, was effected on the spot. Such mashirnama was prepared on the spot in the presence of witnesses which ensure the authenticity and sanctity of the process.

8. The prosecution has collected sufficient material to connect the accused with the alleged offence. The eyewitnesses and other prosecution witnesses have fully implicated the applicant/accused in their statements

under Section 161 Cr.P.C. These statements, which remain uncontroverted at this stage, hold significant evidentiary value. Further, the forensic science laboratory report corroborates the prosecution's version by providing positive scientific evidence supporting the recovery of the said arms and ammunition from the applicant/accused.

9. The offence under Section 23(i)(a) of the Sindh Arms Act, 2013 is of serious nature, involving possession of unlicensed arms and large quantity of ammunition. Such offences attract the prohibitory clause of Section 497 Cr.P.C., which ordinarily bars the grant of bail unless exceptional circumstances are shown. No such exceptional circumstances, sufficient to override the statutory bar, have been proved by the applicant. The offence for which the applicant is allegedly involved is increasing day-to-day and due to such law and order situation is disturbed in the area from which applicant is arrested.

10. The contention of learned counsel regarding non-association of independent witnesses under Section 103 Cr.P.C. is not fatal at this juncture. Similarly, claims of political victimization and the accused's employment as a security officer are unsubstantiated and irrelevant in light of the grave nature of the offence and the recovery of arms.

11. In view of the above, this Court finds no ground to interfere with the earlier order of the trial Court declining bail to the applicant/accused. The serious nature of the offence, positive recovery on credible information, corroborated evidence including forensic reports, and statutory prohibition on bail weigh heavily against the grant of bail. Accordingly, the instant bail application is hereby dismissed.

JUDGE