

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No.D- 42 of 2025

Present:- Amjad Ali Bohio &
Ali Haider 'Ada', JJ

Applicants: Khadim Hussain and others through
Mr. Kamran Ahmed Gorar, Advocate

Respondent: State through Aftab Ahmed Shar, APG

Date of hearing: **18.06.2025**

Dated of order: **18.06.2025**

ORDER

Amjad Ali Bohio, J: The applicants/accused seek post-arrest bail in Crime No. 107 of 2025, registered at Police Station A-Section, Dadu, for offences under Sections 353, 342, 148, 149, 440, 114, and 337-H(ii), PPC, read with Sections 6 and 7 of the Anti-Terrorism Act, 1997. Their bail application filed before the learned Anti-Terrorism Court, Naushahro Feroze, was dismissed vide order dated 07.05.2025. Consequently, the instant bail application has been filed.

2. The brief facts of the case, as narrated in the FIR lodged, are that complainant HC-640 Muhammad Ashraf Panhwar, posted as In-charge 15 Madadgar Dadu, was performing snap checking duty on 21.04.2025 at about 0045 hours along with other police personnel when they noticed a motorcycle speeding towards them. The said motorcycle, allegedly driven by Khadim Hussain s/o Jam Khan and carrying Nadar s/o Habeebullah and Salih s/o Jado Khan (all by caste Jamali), did not stop upon being signaled. Instead, they allegedly used abusive language, refused to comply, and left the scene while stating they would return. Later, at about 0100 hours, a red-coloured car and six motorcycles, each carrying two persons and allegedly armed with pistols, arrived at the 15 Madadgar Chowki. The attackers, including the present applicants Khadim Hussain, PC Wazeer, and Afzal alias Malhan along with others (all by caste Jamali and residents of Irrigation Colony, Dadu), allegedly assaulted and confined the police personnel, tore their uniforms, damaged government property including wireless sets, PTCL lines, walkie-talkies, tables, and chairs, and fired into the air, causing panic among the public. After about half an hour, the assailants fled. The complainant states that the police party was released by other patrolling officials who arrived subsequently. The FIR was then lodged at the concerned police station.

3. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated due to political enmity with the police. He submitted that the applicants had previously staged a protest over a water dispute, leading to an exchange of harsh words with the SHO of Police Station A-Section, Dadu, and that the present FIR was lodged out of malice and retaliation. It was further argued that ten members of the same family have been nominated in the FIR, reflecting mala fide on the part of the police. Counsel also pointed out that all the prosecution witnesses cited are police officials, and no private or independent witnesses have been named, despite the incident allegedly occurring on a busy road in a populated area. This, it was argued, casts serious doubt on the credibility of the prosecution case. Furthermore, the learned counsel submitted that the allegations are general in nature, with no specific role attributed to the applicants, rendering the prosecution story vague and unconvincing at this stage. It was also argued that the inclusion of Sections 6 and 7 of the Anti-Terrorism Act is unjustified, as the FIR does not allege any act intended to cause terror among the public at large, nor does it cite any civilian witnesses attesting to such panic. He emphasized that the prosecution has failed to demonstrate how the alleged acts fall within the statutory definition of terrorism. Additionally, there is no mention of injuries to any police officials, nor any supporting medical certificates. The learned counsel further questioned the credibility of identification at such odd hours during the night and under distress, particularly the precise naming of the accused with full parentage and caste, which appears doubtful. He argued that in the absence of specific allegations and credible corroboration, the case falls within the scope of further inquiry under Section 497(2), Cr.P.C. He further submitted that the applicants are in judicial custody, no longer required for investigation, and their continued detention serves no purpose. He concluded by stressing that at the bail stage, the Court is not to undertake a deeper appreciation of the evidence and should rely only on tentative assessment. He accordingly prayed for the grant of post-arrest bail.

4. Conversely, the learned Additional Prosecutor General opposed the bail application, submitting that the allegations are serious in nature and pertain to violence against police officers on duty, unlawful confinement, and destruction of government property. He further contended that the actions of the accused created panic in the locality and were aimed at obstructing public authorities in the discharge of their lawful duties. However, he did not dispute the fact that all the prosecution witnesses

cited in the challan are police officials and that no member of the public has come forward.

5. I have considered the submissions made by the learned counsel for the applicants and the learned A.P.G., and have perused the available material on record.

6. On tentative assessment, it appears that although the allegations in the FIR are serious, the prosecution has, thus far, failed to present any material directly connecting the applicants with specific overt acts committed during the incident. The absence of injuries and the lack of independent witnesses significantly weaken the prosecution's case at this preliminary stage. Moreover, the applicability of Sections 6 and 7 of the Anti-Terrorism Act appears doubtful in the absence of any public witness or evidence suggesting that the incident instilled widespread fear or terror among the general populace. The fact that only police officials have been cited as complainant and witnesses, without any corroborating evidence or medical proof of injury, warrants caution, particularly when malice and political motivation have been alleged.

7. The case against the applicants, therefore, calls for further inquiry within the meaning of Section 497(2), Cr.P.C., entitling them to the benefit of doubt at the bail stage. The applicants do not have a history of prior convictions or hardened criminal conduct, nor does the record suggest any likelihood of tampering with prosecution evidence or absconding.

8. In view of the foregoing, the instant bail application is allowed. The applicants, Khadim Hussain, PC Wazeer, and Afzal alias Malhan, are admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs.50,000/- each and a personal bond in the like amount to the satisfaction of the trial Court.

9. Needless to mention, the observations made herein are tentative and shall not prejudice the case of either party during the trial. The instant Criminal Bail Application No. D-42 of 2025 is disposed of accordingly.

10. These are the reasons for our short order dated 18.06.2025.

JUDGE

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