

## IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Before:

**Mr. Justice Khalid Hussain Shahani**

**Mr. Justice Muhammad Jaffer Raza**

### Criminal Bail Application No. D-10 of 2025

Applicants : 1. Qamaruddin s/o Abdul Rehman Jatoi  
2. Yaseen s/o Gul Hassan,  
Through Mr. Asif Ali Abdul Razzak Soomro &  
Co. advocates.

Respondent : Through Mr. Ali Anwar Kandhro  
Additional Prosecutor General, Sindh.

Date of hearing : 15.07.2025  
Date of order : 22.07.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.**—Applicants Qamaruddin and Yaseen, seek the post-arrest bail in a case bearing Crime No.53/2024, registered at Police Station Chak, District Shikarpur, for offences punishable under Sections 302, 324, 353, 148, 149, 337-H(2) PPC read with Sections 6 and 7 of the Anti-Terrorism Act (ATA).

2. The genesis of the prosecution case, as delineated in FIR lodged by complainant Inspector Ghulam Hussain Bhutto of PS Chak, is that on October 9, 2024, at about 1500 hours, a large contingent of police officials from various police stations, including SIP Suhrab Khan Odho, SHO PS Bachal Bhayo, proceeded from PS Chak under Roznamcha Entry No.15 dated 09.10.2024 at 1300 hours in an official APC vehicle, under the supervision of SDPO Lakhi Ghulam Shah, with the objective of apprehending wanted absconders and proclaimed offenders. Upon reaching near the protective band near village Jaro Chakar, they allegedly encountered a group of about 41 accused culprits, including named individuals such as Naseer, Hafeez, Yasin, Noor Hassan, Mujahid, Zameer, Jabbar, Qamaruddin, Meeran, Mehboob, Younis, Shamas, Imamuddin, Shoukat, Nadir, Bago,

Shahzado, Akbar, Hair, Bakshsho, Mazhar, Qurban, Imdad, Irshad, Najaf, Abdul Rauf, all armed with various weapons. It is further alleged that the accused persons opened straight fire upon the police party, to which the police retaliated in self-defense. During this encounter, accused Zameer is stated to have directly hit SIP Suhrab Khan Odho, SHO PS Bachal Bhayo, who succumbed to injuries. The remaining police party reportedly chased the culprits but were unable to apprehend them. The complainant subsequently lodged the FIR to the aforementioned effect. After the usual investigation, the police submitted the challan in the Court of the learned Judge Special Court ATC Shikarpur. It is pertinent to mention that a previous bail application on behalf of the applicants/accused was dismissed by the Court of learned Judge Special Court ATC Shikarpur vide order dated March 3, 2025.

3. Learned Counsel for the applicants vehemently argued that the applicants have been falsely implicated in this case by the police merely to demonstrate their efficiency to higher authorities. He emphasized several critical points in support of the bail application. Firstly, he highlighted the alleged delay in the lodging of the FIR, noting that while the incident occurred on October 9, 2024, at 1500 hours, the FIR was recorded at 1830 hours on the same day, which, in his view, warrants scrutiny and raises doubts about the spontaneity and accuracy of the prosecution's narrative. Secondly, and most significantly, he contended that the name of applicant Yaseen did not transpire in the initial FIR. His implication, it was argued, only surfaced belatedly in the further statements recorded under Section 161 Cr.P.C. by the complainant and other prosecution witnesses. This, he asserted, renders the case against Yaseen one that requires "further inquiry" under Section 497(2) Cr.P.C. Thirdly, it was pointed out that the active and specific role of firing upon the deceased SIP Suhrab Khan Odho was attributed solely to co-accused

Zameer, who remains a fugitive from law. He argued that general allegations cannot be sufficient to deny bail when the principal role is assigned to another, absconding individual. Fourthly, a crucial procedural lacuna was highlighted that no identification parade of accused Yaseen was ever conducted before the competent court of law. Given that Yaseen was not named in the FIR and his identity was supposedly established later through statements, the absence of an identification parade gravely undermines the prosecution's claim of his involvement. Furthermore, the learned counsel asserted that all the prosecution witnesses are interested parties, being police personnel and subordinates to the complainant, and no independent witness has been cited for the alleged incident. He also submitted that the FIR itself appears to be fabricated and the story highly improbable, given that despite a large police force and numerous accused, only one police official sustained injury, and no police vehicles were hit. He also mentioned that applicant Qamaruddin is a Head Constable in the police and that accused has no criminal record. He further argued that the Addl. P.G had stated that there was no identification of accused Yaseen. While six bullets were allegedly recovered from Yaseen, no recovery was made from Qamaruddin. He concluded that the material collected by the police shows that the case of the present applicants/accused needs further inquiry, and they are not likely to abscond or tamper with the prosecution's case.

4. In contra, the Learned Additional Prosecutor General, robustly opposed the grant of bail, reiterating the gravity of the offense. He submitted that the applicants/accused, along with their companions, armed with deadly weapons, made straight firing upon the police party with the intention to kill and deter them from discharging their lawful duties, resulting in the martyrdom of SIP Suhrab Khan Odho. He contended that the complainant and

prosecution witnesses have fully supported the prosecution's case, and no enmity has been brought on record to suggest false implication. He further argued that the Investigating Officer secured blood-stained earth, the deceased's uniform, and crime empties from the spot, and the positive laboratory reports support the prosecution's version. While acknowledging the affidavits of two sons of the deceased expressing no objection to bail, he pointed out that other legal heirs (mother, widow, other sons, and daughters) had not appeared before the Court to submit similar affidavits. He stressed that this is a state case, the challan has been submitted, and there is a possibility of the accused absconding if released on bail. He also emphasized that the offense falls under the prohibitory clause of Section 497 Cr.P.C. and Sections 6/7 of the Anti-Terrorism Act, making it a non-compoundable offence.

5. We have meticulously heard the elaborate arguments advanced by the learned counsel for both parties and have carefully perused the available record, including the FIR, challan, and the previous order of the Anti-Terrorism Court.

6. While the previous bail application was dismissed by the learned Anti-Terrorism Court, this Court, in its independent assessment, finds compelling grounds for "further inquiry" in the case of applicant Yaseen, which warrant the grant of bail.

7. It is an undisputed fact that the name of applicant Yaseen does not find mention in the initial FIR. His implication in the commission of the alleged offence emerged solely through the subsequent further statements recorded by the complainant and other prosecution witnesses under Section 161 Cr.P.C. This belated surfacing of Yaseen's name, without a satisfactory explanation for its omission in the prompt report, raises a significant doubt regarding the authenticity and spontaneity of his involvement. The principle

established in numerous precedents, including *Syed Saeed Muhammad Shah & others Vs the State (1993 SCMR 550)*, emphasizes the need to scrutinize statements recorded with delay or without proper explanation. In the present context, the delayed implication of Yaseen, whose name was conspicuously absent from the foundational document of the case, strongly suggests that his role requires a deeper probe during trial.

8. Furthermore, it is evident from the prosecution's own narrative that the active and specific role of firing upon and causing the death of SIP Suhrab Khan Odho has been attributed to co-accused Zameer, who is currently absconding. While the concept of common object in an unlawful assembly holds all members equally liable, the attribution of the principal and fatal act to an absconding co-accused, coupled with a general or less specific role assigned to the present applicants, creates a scenario where the extent of their direct involvement in the murder may need further elucidation through evidence at trial. This distinction in roles can be a valid ground for considering bail, particularly when the main culprit is not yet apprehended.

9. Most critically, the record reflects that no identification parade of applicant Yaseen was conducted by the investigating agency. An identification parade serves as a crucial piece of corroborative evidence, especially when an accused person is not named in the FIR and is identified for the first time by witnesses during the investigation. The absence of such a parade, particularly when Yaseen's name surfaced post-FIR, leaves a significant gap in the prosecution's case regarding his concrete identification and direct involvement. This procedural lapse further strengthens the argument that the case against Yaseen is one that merits "further inquiry" at the trial stage.

10. While the learned Addl. P.G correctly highlighted the gravity of the offense, the collection of evidence and the non-compoundable nature of the ATA sections, these aspects, while weighty, do not automatically negate the "further inquiry" clause when specific infirmities in the prosecution's evidence against a particular accused are apparent at the bail stage. The observations regarding the affidavits of only two legal heirs are noted; however, the primary focus for granting bail in this instance rests on the procedural and evidentiary weaknesses concerning Yaseen's specific implication.

11. It is a well-settled principle that at the bail stage, the Court is not to delve into a deep appreciation of evidence, but only to form a tentative assessment of whether reasonable grounds exist to believe that the accused has committed a non-bailable offense. In the instant case, the cumulative effect of Yaseen's non-nomination in the FIR, his belated implication, the attribution of the principal role to an absconding co-accused, and the glaring absence of an identification parade, collectively lead this Court to the tentative conclusion that there are sufficient grounds to believe that the case of applicant Yaseen requires "further inquiry."

12. As for applicant Qamaruddin, while some arguments were made regarding his police service and no recovery from him, the specific grounds for "further inquiry" are not as pronounced as in the case of Yaseen. However, given that both applications are being disposed of by a single order and the overall circumstances of the encounter, his case also warrants consideration in light of the general nature of allegations against the group.

13. Therefore, keeping in view the aforementioned grounds, particularly the non-nomination of Yaseen in the FIR, his subsequent implication in further statements without an identification parade,

and the attribution of the principal role to the absconding co-accused Zameer, this Court is of the considered view that the case of the applicants/accused falls within the ambit of "further inquiry" as contemplated by Section 497(2) Cr.P.C. For the foregoing reasons, the instant bail application stands allowed. The applicants/accused, Qamaruddin S/O Abdul Rehman Jatoh and Yaseen S/O Gul Hassan, are hereby admitted to post-arrest bail, subject to furnishing solvent surety in the sum of Rs. 500,000/- (Rupees Five Hundred Thousand Only) each, with one reliable surety in the like amount to the satisfaction of Trial Court.

14. It is made clear that the observations made hereinabove are tentative in nature and shall not, in any manner, prejudice the merits of the case during the trial.

**J U D G E**

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Asgbar Altah/P.A