

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Cr. Bail Appln. No.S-395 of 2025.

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DATE OF HEARING

ORDER WITH SIGNATURE OF HON'BLE JUDGE

- 1.For orders on office objection as flag A.
- 2.For hearing of bail application. _____

24.7.2025.

Mr. Asif Ali Abdul Razzak Soomro, advocate for applicant.

Mr. Nazeer Ahmed Bangwar, D.P.G for the State.

ORDER

KHALID HUSAIN SHAHANI .-J Through these two criminal bail applications, the applicant Abbas @ Ghulam Abbas seeks post-arrest bail in cases bearing crime No.146 of 2025 and No.147 of 2025, registered at Police Station A-section Kandhkot, for offences punishable under Sections 353, 324, 399, 402 PPC and 23(i)A, 25 Sindh Arms Act, 2013 respectively. The applicant's earlier pleas for bail were declined by the learned trial Court vide orders dated 08.07.2025.

2. Briefly, the prosecution alleges that on 11.06.2025, complainant ASI Hondal Khan Golo along with his subordinate staff left PS for patrolling, when reached at C.P Shakh at about 1330 hours, noticed and identified that accused Abbas s/o Talib Hussain Malik armed with pistol, Rano s/o Ghulam Rasool Malik armed with K.Kov and three unidentified persons with open faces having K.Kovs were on two motorcycles and were standing on eastern side of the C.P Shakh with intention to commit some offence. The accused on seeing police party, alighted from their bikes, took shelter of watercourse and opened straight fires upon police party with intention to kill. The police party also retaliated the firing, advanced ahead and encircled the accused. The encounter continued for 10 minutes, thereafter the police party noticed that

accused Abbas Malik put down his pistol and put his hands up and one bike was parked on bank of the watercourse, whereas remaining accused made their escape good. Accused Abbas Malik was apprehended. Upon checking of the pistol it was found empty and in working condition for which accused disclosed to be without license. Personal search of the apprehended accused was conducted and one phone of Lieu Company and parked motorcycle Honda Dream was taken into police custody. A memo of arrest and recovery was prepared at the scene in the presence of mashirs PC Zuhair Gul and PC Shehzado. Thereafter, the FIRs were registered accordingly.

3. Learned counsel contends that the applicant has been falsely implicated just to show their efficiency. It is argued that no specific injury or damage is attributed to the applicant and that the allegation of firing is general in nature. Despite the alleged ten-minute exchange of firing, there is no evidence of injury or vehicular damage, which casts serious doubt on the application of Sections 324 and 353 PPC. Learned counsel submitted that co-accused has been admitted to bail by the learned trial court, therefore, rule of consistency dictates that the case of present applicant may be dealt similarly. It is further submitted that the non-association of private mashirs at the time of alleged arrest and recovery constitutes a violation of the mandatory provisions of Section 103 Cr.P.C. Accordingly, it is urged that the case against the applicant requires further inquiry.

4. On the other hand, the learned Deputy Prosecutor General has opposed the grant of bail on the pretext that the applicant was nominated in the FIR and was observed firing at a police party.

5. I have heard the arguments advanced by the learned counsel for the parties and have perused the record with their assistance.

6. It is an admitted position that no injury was caused to any police official nor was any vehicle damaged during the alleged ten-minute exchange of fire. This raises serious doubt regarding the actual occurrence of the alleged

encounter. Moreover, the non-association of any private witnesses, shakes the credibility of the prosecution's version and constitutes a clear violation of Section 103 Cr.P.C. Furthermore, the role attributed to the applicant is limited to ineffective firing and no specific overt act resulting in harm to life or property has been established. The allegations are vague and generalized, and their veracity cannot be tested at the bail stage without a deeper appreciation of evidence. The applicability of Sections 324, 353, 399, and 402 PPC, under the attending circumstances, appears doubtful and shall be determined at trial. These factors collectively bring the case within the scope of further inquiry as envisaged under Section 497(2) Cr.P.C.

7. In view of the above, the applicant Abbas @ Ghulam Abbas is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) in each case and personal recognizance bonds in the like amount to the satisfaction of the learned trial Court.

8. It is clarified that the observations made herein are tentative in nature and shall not prejudice the merits of the case at the stage of trial.

JUDGE