

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail Appln. No. S-504 of 2025

Applicant : Shahnawaz @ Shah Ali s/o Sobho Khan, Kobhar
(On interim bail)

&

Cr. Bail Appln. No. S-440 of 2025

Applicant : Abdul Latif s/o Muhammad Ismail, Kobhar
(In custody)
Both applicants through Mr. Shamsuddin N.Kobhar,
Advocate

The State : Through Muhammad Raza Katohar,
D.P.G. Sindh.

Date of hearing : 04.09.2025

Date of order : 11.09.2025

ORDER

KHALID HUSSAIN SHAHANI, J:- This common order is directed to decide two connected bail applications; Shahnawaz alias Shah Ali, applicant in Criminal Bail Application No.S-504 of 2025 seeks confirmation of interim pre-arrest bail, while Abdul Latif, applicant in Criminal Bail Application No.S-440 of 2025, prays for post-arrest bail. Both arise from FIR No.70 of 2025, for offence under Section 459 PPC, registered at Police Station Daharki. Their earlier bail pleas were dismissed by the learned Additional Sessions Judge, Daharki vide orders dated 16.05.2025 and 12.06.2025 respectively.

2. Briefly, the FIR alleges that on the intervening night of 2nd and 3rd May 2025, complainant Raza Muhammad and his wife Mst. Hazooran were asleep within their house when assailants, including applicants, entered armed with dangerous weapons to steal cattle. It is specifically alleged that Abdul Latif fired upon Mst. Hazooran causing firearm injuries, while co-accused Haris fired upon the complainant himself, both victims sustaining injuries supported by medical examination.

3. Learned counsel for the applicants argued at length that both have been falsely implicated owing to existing enmity between the families on account of allegations of karo kari. He urged that the occurrence never took place in the stated manner, and that injuries received in another quarrel were subsequently twisted into a story against the applicants. It was contended that there was a delay of one day in lodging of the FIR which renders the prosecution story doubtful, that identification at night under dim battery light was unsafe, that no recovery has been made from Abdul Latif, and that the offence under Section 459 PPC is not fully constituted as no robbery was accomplished.

4. Counsel relied upon *Shammon alias Samandar v. The State* (2007 MLD 294), where bail was granted on the ground that the prosecution story appeared doubtful as enmity was admitted, no recovery was affected, and essential ingredients of Section 459, PPC were not satisfied. He further cited *Shoukat v. The State* (2004 PCr.LJ 2034), where the Court held that in serious offences, if the accusation requires further inquiry in view of contradictions and delayed FIR, the accused may be considered for bail. Learned counsel argued that the present case squarely falls under the ratio of the above precedents, therefore bail should be extended.

5. Despite service, the complainant neither appeared nor arranged representation.

6. Conversely, learned Deputy Prosecutor General opposed the bail plea with vehemence, contending that both applicants stand specifically nominated in the FIR with active roles, Abdul Latif having caused firearm injury to Mst. Hazooran, while Shahnawaz alias Shah Ali participated in the house trespass armed with a lathi, thus present and aiding the occurrence. He submitted that ocular account stands fully supported by medical corroboration,

and statements under Section 161, Cr.P.C. are consistent and specific. He argued that the cited precedents by the applicants' counsel are distinguishable on facts and not applicable here.

7. Learned DPG placed reliance upon *Ali Nawaz alias Muhammad Khan v. The State* (2011 MLD 933), where in bail matters involving Section 459 PPC, the Court declined bail considering the gravity of charge and clear attribution of role of firing resulting in injuries. Similarly, in *Yaseen v. The State* (2020 SCMR 1182), the Honourable Supreme Court held that in cases carrying capital punishment, bail cannot be granted as of right; it has to be refused where there is direct evidence supported by medical testimony. Likewise, in *Asghar alias Ghoro v. The State* (2013 PCr.LJ 1203), bail was refused where specific role of causing firearm injuries was fixed on the accused and the ocular account was corroborated by medical record. He submitted that the authoritative dicta of superior Courts leaves no room for bail in the present facts.

8. Having considered the rival positions, it is clear that the reliance placed by learned counsel for applicants is misplaced. In *Shammon alias Samandar and Shoukat*, the grant of bail ensued where material circumstances created reasonable doubt regarding the prosecution story, such as unexplained contradictions, admitted enmity, absence of medical support, or non-fulfillment of Section 459 PPC ingredients. In contrast, in the instant case, the FIR is prompt enough in the peculiar facts where injured were first transported for treatment. The ocular account is consistent, the parties being known to each other, which dispels any apprehension of mistaken identity at night. The story receives unimpeachable support from medical evidence. Moreover, specific active role is attributed to Abdul Latif of firing upon Mst. Hazooran, while

Shahnawaz remained among the assailants participating in unlawful house trespass. Thus, the cited case law for applicants is not attracted.

9. On the other hand, the precedents referred by the learned Deputy Prosecutor General directly apply. In *Yaseen v. The State*(2020 SCMR 1182) the Apex Court reiterated that in cases involving capital punishment, grant of bail is an exception and not a rule. *Ali Nawaz alias Muhammad Khan* and *Asghar alias Ghoro* further strengthen the principle that when direct ocular account, supported by medical evidence, overwhelmingly involves the accused in heinous offences, indulgence of bail cannot be granted.

10. In the circumstances, both applicants face specific allegations under Section 459 PPC, a charge punishable with life imprisonment. Law is settled that bail in such cases can be allowed only in exceptional circumstances, which conspicuously do not exist herein.

11. Accordingly, Criminal Bail Application No.S-440 of 2025 filed by Abdul Latif is dismissed. Likewise, interim pre-arrest bail granted to Shahnawaz alias Shah Ali in Criminal Bail Application No.S-504 of 2025 is recalled, resulting in dismissal of his application.

12. It is observed that findings herein are tentative in nature, strictly confined to disposal of these bail applications, and shall not prejudice the trial Court in determining the case on evidence.

JUDGE